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In the Supreme Court of the United States

OCTOBER TERM, 1996

LUCIOUS ABRAMS, JR., ET AL., APPELLANTS

v.

DAVIDA JOHNSON, ET AL.

UNITED STATES OF AMERICA, APPELLANT

v.

DAVIDA JOHNSON, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA

JOINT APPENDIX

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JOINT APPENDIX

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UNITED STATES DISTRICT COURT
FOR THE SOUTHEREN DISTRICT OF GEORGIA

AUGUSTA DIVISION

CIVIL ACTION NO. CV 194-008

LUCIOUS ABRAMS, JR., ET AL., APPELLANTS

v

DAVIDA JOHNSON, ET AL.

A. RELEVANT DOCKET ENTRIES

DATE	NR	PROCEEDINGS
7/12/95	243	NOTICE of the State of Georgia's Calling of a Special Session of the General Assembly in Which to Enact a Remedial Reapportionment Plan by State dfts Zell Miller, Pierre Howard, Thomas Murphy, Max Cleland.
8/2/95	251	ORDER setting hearing on redistricting remedies at Augusta on 8/22/95 at 9 a.m., inviting original parties to submit suggestions not to exceed 25 pages no later than 8/15/95, and informing parties that all pending motions and matters relating to costs and atty fees will be considered (signed by Judge Dudley H. Bowen Jr.), copies served. [Entry date 08/03/95]
8/14/95	258	PLAINTIFFS' SUBMISSION on Remedy Per Court Order of August 2, 1995 [edit date 08/14/95]
8/14/95	260	MOTION by Abrams intervenors for Reconsideration of [251-1] order dtd 8/2/95

to allow intervenors to submit remedies for consideration, and to stay Ct.'s order of 8/2/95 to allow the Ga Gen Assembly to complete congressional redistricting with brief in support. [Entry date 08/15/95]

8/15/95 262 SUBMISSION of Defendant Thomas B. Murphy in Response to the Court's Invitation to Submit Suggestions as to Remedy.

8/15/95 267 MOTION by United States to Vacate [251-1] order of 8/2/95 setting hearing on redistricting remedies at Augusta on 8/22/95 to allow for a legislative remedy with brief in support. [Entry date 08/16/95]

8/15/95 271 RESPONSE by dfts Miller, Howard, Cleland to ct's 8/2/95 [251-1] order setting hearing on redistricting remedies. [Entry date 08/16/95]

8/17/95 274 AMENDED BRIEF of Amici Curiae by John Lewis and Newt Gingrich.

8/22/95 — Motion hearing held * * *. All pending motions to intervene DENIED; to appear amicus curiae GRANTED for the purpose of making written submissions, DENIED for purpose of making oral arguments or participating in open Court; * * * [Entry date 09/28/95] [Edit date 09/29/95] Motion to dismiss Abrams intervenors is DENIED; Abrams intervenors' motion to be allowed to submit proposed redistricting remedies is GRANTED; all motions to stay or vacate the order calling for today's hearing DENIED; * * * deadline Oct 15 set for new plan; * * *

Abrams intervenors not to participate [in trial on 2d District]; Abrams intervenors' proposal for plan of remedies of 11th Cong. District to be filed within 10 days; Counsel to notify the Court in writing if reapportionment plan not passed. * * * [Entry date 09/28/95] [Edit date 09/29/95]

8/31/95 295 STATUS REPORT by Zell Miller, Pierre Howard, Max Cleland as to proposed Congresional plan [Entry date 09/01/95]

9/1/95 296 PROPOSED REDISTRICTING PLANS by Abrams Intervenors.

9/1/95 297 NOTICE by Thomas Murphy with respect to legislative proceedings (status of special session of Georgia General Assembly)

9/5/95 300 STATUS REPORT by Zell Miller, Pierre Howard, Max Cleland regarding proposed Congressional plan passed by Georgia Senate on 8/31/95 [Entry date 09/07/95]

9/13/95 306 NOTICE by dft Thomas Murphy with respect to legislative adjournment.

9/15/95 307 STATUS REPORT by Zell Miller, Pierre Howard, Max Cleland [Entry date 09/18/95]

9/28/95 — Bench trial set for 10:00 10/30/95 before Chief Judge Edenfield; Circuit Judge Edmondson and District Judge Bowen at Augusta. [Entry date 10/02/95]

10/11/95 319 SUPPLEMENTAL DECLARATION of Selwyn Carter

10/13/95 321 BRIEF on remedy by plffs [Entry date 10/25/95]

10/18/95	325	ORDER directing parties to submit a plan that makes the least chgs, in terms of line drawing, bringing the 11th Dist. into compliance w/US Constitution, and a plan that makes the least chgs, in terms of line drawing, in GA's present congressional plan bringing the 11th and 2d Dists. into compliance w/US Const; the parties are instructed to confer regarding these plans; signed by Judge James L. Edmondson); copies served. [Entry date 10/25/95]
10/20/95	329	ORDER directing parties to submit plans based on first plan that GA submitted to Dept. of Justice for preclearance signed by Judge Dudley H. Bowen Jr.); copies served. [Entry date 10/25/95]
10/20/95 [sic]	—	Bench trial held as to 2d District; ruling reserved; remedy phase to continue on 10/31/95
10/27/95	343	SUBMISSION of dfts Miller, Cleland, and Howard in connection with the issue of remedy.
10/27/95	344	NOTICE of filing minimum change plan and brief by Abrams Intervenors
10/27/95	345	RESPONSE/REMEDY submission by defendant Thomas Murphy to [329-1] order and [325-1] order of 10/17 and 10/20/95.
10/27/95	348	BRIEF on remedy by United States
10/30/95 [sic]	349	BRIEF on remedy by United States
10/[30]-	—	Bench trial held; counsel argument and

31/95		evidence on remedy phase concluded; ruling of the Court reserved; the Court to notify the parties if additional briefing permitted. All evidence from 11th District trial made a part of the record in these proceedings. * * * [Entry date 11/01/95]
11/9/95	363	ORDER directing plffs' counsel to submit proposed plan to be known as plffs' remedy 4X by 11/22/95, comments from each party not to exceed 12 pgs in length (signed by Judge Dudley H. Bowen Jr.); copies served. [Entry date 11/10/95]
11/16/95	368	ORDER inviting parties to submit addit material to indicate chgs in racial composition of DeKalb Co, GA, from the '90 census to present (signed by Judge Dudley H. Bowen Jr. for 3- judge ct); copies served.
11/22/95	369	RESPONSE by United States to plffs' [367-1] response to Ct's order of 11/9/95, plffs' plans remdy 4X and 4X-R
11/22/95	370	RESPONSE/REPLY by Abrams intervenors to [367-1] plffs' response to Ct order of 11/9/95
11/22/95	371	RESPONSE/SUBMISSION of additional demographic evidence by dfts Miller, Howard and Cleland to [368-1] order of 11/16/95
11/22/95	372	REPLY/RESPONSE by amicus John Lewis and amicus Newt Gingrich to plffs' suggested [367-1] response/remedy 4X and 4XR [Entry date 11/27/95]
11/30/95	374	OBJECTION by State dfts Miller,

Howard, Cleland to [369-1] response by US Dept of Justice to plffs' plans 4X and 4XR.

12/1/95 375 REPLY by plffs to [369-1] response by United States, [370-1] response by Karen Watson, William Gary Chambers Sr., G. L. Avery, Lucious Abrams Jr., [372-1] response by Newt Gingrich, John Lewis to court order of November 9

12/1/95 376 RESPONSE memorandum by Abrams intervenors to [371-1] submission of additional demographic evidence by Max Cleland, Pierre Howard, Zell Miller

12/1/95 377 ORDER that Georgia's Second Congressional District is unconstitutional in its current composition; dfts are barred from using it in future congressional elections; (signed by Judge James L. Edmondson for three-judge court); copies served.

12/6/95 378 RESPONSE by United States to [374-1] objection by Cleland, Howard and Miller, and response to [375-1] response by plffs to US submission of plan on 11/22/95 [Entry date 12/07/95]

12/7/95 379 OBJECTION by defendants Miller, Howard, and Cleland to [372-1] reply/response by Amici Curiae Gingrich and Lewis to plffs' suggested remedy 4X and 4XR

12/8/95 380 OBJECTION by plffs to submission of affid of Donald Hill in [372-1] response by Newt Gingrich and John Lewis

12/8/95 381 RESPONSE by United States to [371-1] submission of additional demographic information by Cleland, Howard, Miller

12/13/95 384 RESPONSE of amicus Lewis and Gingrich to [379-1] objection by state dfts Cleland, Howard, Miller to reply of amici to plffs' 4X and 4XR suggested remedy, and response to [380-1] plffs' objection to amici's submission of affid of Donald Hill

12/13/95 385 ORDER redrawing Ga's congressional districting plan; directing that elections for members of the House of Reps of the Congress of the US from the St of GA be conducted in accordance with the plan appended to this Order as Appendices "A" and "B"; motions terminated; signed by three-judge court Edenfield, Bowen and Edmondson; copies served. [Entry date 12/14/95]

1/11/96 397 NOTICE OF APPEAL by Lucious Abrams Jr., G. L. Avery, William Gary Chambers Sr., Karen Watson to Supreme Court of the US from Order dtd 12/13/95, oral ruling on 8/22/95, and Order of 1/8/96; copies served. [385-1] order, [395-1] order [Edit date 01/12/96]

1/11/96 398 MOTION by Lucious Abrams Jr., G. L. Avery, William Gary Chambers Sr., Karen Watson for a Stay pending appeal of Order of Ct entered 12/13/95, permitting '96 primary and general elections to be held under a redistricting plan that does not violate Sec. 2 and 5 of Voting Rights, with brief in support. [Edit date 01/16/96]

1/12/96 401 NOTICE OF APPEAL by dft-intervenor United States to the Supreme Court of the

US from 12/13/95 order of USDC; copies served. [385-1] order [Entry date 01/16/96]

1/26/96 407 ORDER denying Abrams Intervenors' [398-1] motion for a Stay pending appeal of Order of Ct entered 12/13/95 (signed by Judge J. L. Edmondson, Judge B. Avant Edenfield and Judge Dudley H. Bowen Jr.); copies served.

B.
TESTIMONY OF JOSEPH KATZ

[Excerpt from Trial Testimony, 5 T. Tr. p. 63, line 5 to p. 86 line 1,]

Could you tell us, in a more conversational way, what you have found. Essentially, to this point, you've been asked to undermine Dr. Lichtman's work, I think. So tell us why it's not worthy of your credit.

MR. WALBERT: I was just moving to the next point, Your Honor.

HONORABLE JUDGE BOWEN: Tell me, in a more conversational way, about his work, what you find troubling about it?

A (Dr. Katz) The thing I find troubling about it is attempting to estimate election by election the actual voting percentages of the white voters for the white candidate and the black voters for the black candidate.

The data that he has available, that any of us have available, is merely the registration data for the precinct, and the vote data for the precinct. And if we have precincts that are racially mixed in that there's a high percentage of white and black voters, with only the vote data and the registration data, it really isn't possible to dig out what the percentages of racial voting patterns are. And this is magnified when we had very few precincts to work with.

HONORABLE JUDGE BOWEN: Could it be said that any time you have a precinct in which there are two races voting, that there is inevitably some extrapolation in saying who voted and who did not?

A (Dr. Katz) Yes. And to come up with an estimate by necessity, you have to make some additional assumptions about the way the different races voted.

HONORABLE JUDGE BOWEN: You asked, or your [*sic*] mentioned, some impossible results. Are those results that are impossible because of mathematical calculation or because of the methodology used?

A (Dr. Katz) In these cases, it's because of the methodology used. The quadratic relationship that I have demonstrated here, if you try to start fitting linear equations to election data where your precincts fall, say, under 40% black registered voters, then what you're getting in effect are observations that fall somewhat along that line where turnout increases.

And if you then fit a line to that, that will simply shoot the turnout further up, and it never has a chance to adjust back down.

HONORABLE JUDGE BOWEN: Go ahead, Mr. Walbert.

MR. WALBERT: If Your Honor doesn't mind, if I could make an inquiry of the Court, I just found out that one of the copies I was working off of this report when the printer made it apparently left all the exhibits out behind Tab Five, and if I might just to make sure that - - -

HONORABLE JUDGE BOWEN: have - - -

MR. WALBERT: Do you have something?

HONORABLE JUDGE BOWEN: I have charts and graphs on mine.

MR. WALBERT: All right. That's good. I just checked the original one that is marked as an exhibit in evidence as well.

HONORABLE JUDGE BOWEN: Well, Dr. Katz, I know you and Mr. Walbert have talked about this a number of times, and that there are necessary terms of art,

but don't hesitate to speak to us in a conversational way.

Q (Mr. Walbert) Now, Dr. Katz, I want to turn your attention to the ultimate question here in this Court about the likelihood of this kind of evidence, the likelihood of determining whether a black candidate would or would not win in a district of a certain percentage of black voters.

And let me ask you, before we turn to your calculations and your charts, does Dr. Lichtman's methodology allow one to make those kinds of predictions or not?

A Not as methodology to the extent that he merely estimates the racial polarization of voting estimates.

Q All right. Now have you used statistical techniques and standard analytical techniques, Dr. Katz, to try to make determinations of the likelihood of a black candidate prevailing in a black-on-white election in congressional districts of various percentages, using the data that Dr. Lichtman relied upon?

A Yes. That data and some additional data.

Q Okay. Now, are the final determination, before we go back to them in detail, are those the charts that are contained in your report, most of them anyhow, behind Tab Five?

A Yes, they are.

Q Now, I'm going to pick out from here, if I could, what I believe to be the first one of those charts behind Tab Five, and put it up here.

Now using the data that Dr. Lichtman has, and he relied upon, tell the Court what is depicted here by the probability of the black candidate winning an election, what this line and data plot would allow one to use this chart for.

A Okay. What I've tried to represent here is a frequency distribution of the percentage of precincts in all of the elections in the database, in which the black candidate or black candidates had the majority of the vote.

Q Let me just get you, what is, if you wanted to determine, Dr. Katz, the likelihood of a black candidate winning in a black and white race, can this chart, based on the database here, be used for that purpose?

A Yes.

Q How would you do that?

A You would look at the racial composition of the election. Say there's 25 to 30% black registered voters, and the estimate, or the probability that the black candidate would win is the number approximately 20% in this box here.

HONORABLE JUDGE BOWEN: Do you make any assumption about the qualifications of the candidates being equal?

A No. What I'm trying to do is just get an overall probability without limiting it to - - -

HONORABLE JUDGE BOWEN: This is your, this is your projection, not Lichtman's, you're using the Lichtman information. Is that right?

A I'm using the database from Dr. Lichtman, but I'm not using it in the way he used it.

HONORABLE JUDGE BOWEN: All right. This is your graph.

A Yes, sir, that's correct.

HONORABLE JUDGE BOWEN: Okay.

Q (Mr. Walbert) Now, let me, I think, flip a couple

more charts back in your exhibit Tab Five there, I believe this would be the one that is depicted there, Dr. Katz.

In this graph, is it the same kind of presentation of the graphical analysis that was on the previous one?

A Yes, it is. What's changed in the database of elections that I've used to conduct the analysis.

Q How has the database been changed in preparing this particular one, Dr. Katz?

A In this graph, I enhanced the Lichtman database to include the rest of the precincts from the 1990 Governor's primary.

Q Let me stop you there, if I might. When you say you enhanced it to include the rest of the precincts for the 1990 Governor's primary, what do you mean?

A Dr. Lichtman's database did not contain all of the precincts from the 1990 Governor's election, primary election.

Q Was there any apparent methodology to his selecting ones here and there that you could determine at all?

A Not that I could determine.

Q Was Dr. Lichtman's database, put aside the Governor's election, but the rest of the election, was there any geographical limitation to it, or was it from various places all over the State of Georgia?

A Mostly from all over Georgia, although in predominantly white counties, I don't think he had any election, probably because there weren't any black/white elections.

Q All right. Now, his database, in fact, was just

black/white elections; wasn't it?

A That's correct.

Q And was it all democratic primary elections except for a couple of judicial ones?

A There were judicial elections, there was also a few general elections. But I didn't use those.

Q All right, sir. He testified in [h]is deposition that primaries were the ones that were most important to him, Dr. Katz?

A That's my understanding from reading of his deposition.

Q Okay. Is that why you used the primaries when you just said you did?

A Yes.

Q Okay. Now, you have also enhanced Dr. Lichtman's database you say, you just said, by using the rest of the Governor's race that he is a part of. Why is the 1992 Labor Commissioner and the 1992 Second and Eleventh Congressional Districts primary elections in that database as well?

A Those are additional black/white elections in which I can enhance the overall number of precincts to get more precise estimates of the probabilities of the black candidate prevailing.

Q Okay. Now, was the selection of those black/white democratic primary elections consistent with the rules that Dr. Lichtman has purported to you in the development of his database, Dr. Katz?

A Yes.

Q Were you making any independent political judg-

ments about the propriety of elections or just trying to track his method, his selection?

A I was trying to track Dr. Lichtman's selection.

Q Now - - -

HONORABLE JUDGE EDMONDSON: This is a little bit unusual, I guess, because we're hearing a witness whose purpose is to undercut the testimony of another witness who we have not yet heard.

Explain to me why it is, what is the point that you and the government of the United States are disagreeing about that is pertinent to the outcome of this case.

I understand that there is a great deal of disagreement between the State of Georgia and the United States Government about elections in Georgia in general, and other kinds of elections, but, for our case, what is the point of controversy that I should be focusing on here?

MR. WALBERT: I think this, Your Honor, as far as I understand Dr. Lichtman's testimony, when you start going down this kind of a chart here, it is my understanding that his opinions, as he has ventured before, is that you, basically, blacks can't win under some level—and I'm not sure that he has ever quantified that specifically, but I would expect that he would in this case on his testimony—and what we are showing here is that there is a whole lot different probability and pattern, if you will, Judge, than I expect Dr. Lichtman to testify to.

I think he has basically got his concept about, if I've read him correctly in other case, is that there is kind of a step function here. You're in a safe district at some point, and then it rapidly drops off into oblivion and it stays down there. And I think that's the critical question.

HONORABLE JUDGE EDMONDSON: I did understand from reading summaries of these reports that that was where, that there was a difference of view on that point.

What I do not understand is how that matters to this case, since whatever the percentage of voting-age black voters are in the Eleventh District or the Second District is, I gather, not now disputed, and what is the significance of this pointing out that Georgia thinks one thing and the United States Government thinks something else when what is being done here is defending a district that already exists?

MR. WALBERT: Well, to some extent, Your Honor, I guess it's in response to Your Honor's instructions or suggestions, and I think it is an appropriate one, that we are the client of the law in this case in the highest and best sense.

And I think it would be an inappropriate thing to come into this Court and to defend this district to say and to take the position that it is absolutely necessary for [a] black person to have any chance of election that this district being the percentage that it is.

And I think the government's evidence of Dr. Lichtman tends to be in that direction. I don't think, the State has not taken that position. And I think that what we ought to try to do here is just—we have no idea how this is going to turn out, quite frankly, when Dr. Katz started doing it.

We just said, my request to Dr. Katz was: Is there a way that you can statistically, with statistical quantitative methodology, come up with this. With an ideal of a real, what's the likelihood of winning. Because that's the bottom line.

HONORABLE JUDGE EDMONDSON: Am I to understand that the chief reason that you're litigating this point in this case is to prevent this Court from including in its decision in this case some statement that a State black district must have "X" percentage of voters because you don't want to have that precedent hanging over you in other litigation?

MR. WALBERT: I think that's one, that has partly stated one of the two reasons.

HONORABLE JUDGE EDMONDSON: What is the other one?

MR. WALBERT: The other reason really is to show to the Court what the truth is, if you will, the best that we can, in terms of what percentages are appropriate to the likelihood of black candidates winning in a district of different percentages. To me, that is a very germane point in this case, to our way of thinking.

And I think that the State—I guess that there's—Judge if I can focus in real closely, I do think that the intervenors and the government take the position of both sets of intervenors that the State was really absolutely compelled as a matter of law under Section 2 to enact this district. We don't take that position. It's a fundamentally different position.

We take the position that the State having enacted it, giving this type of chart here and these type of results, it was reasonable what the State did in its overall action, and that the Constitution should not strike down what the State did.

But we fundamentally disagree, Your Honor, on the fact that the State was compelled by either the Fourteenth Amendment or Section 2 to do this.

HONORABLE JUDGE EDMONDSON: This just goes to justifying the district if it is found to be bizarre under *Shaw*; is that right?

MR. WALBERT: Yes, I think—yes, I think that's a fair statement, yes sir.

HONORABLE JUDGE EDMONDSON: I understand this much better now.

MR. WALBERT: I appreciate it. Thank you.

Q (Mr. Walbert) I think we've probably covered that exhibit as much as need be, Dr. Katz. Let me ask you, if I might, one last point which goes to the first reason here, and that is this:

Did Dr. Lichtman also include in his database, in his analysis, some of the judicial elections in Georgia, such as some precincts from the Robert Benham race in 1984?

A Yes, he did.

Q Have you made an assessment, Dr. Katz, of all of the database on judicial elections in his database, with all of the precincts, with all of the state-wide precincts for Judge, now Justice, Benham, and Justice Sears-Collins, in all of the four state-wide elections?

A All four state-wide, yes, I have.

Q All right.

A And one of these exhibits shows the probability of the black candidate winning the election if we throw in these additional elections.

Q Now, you used the judicial elections on the local level that Dr. Lichtman had as well; didn't you?

A Yes.

Q Did you make a finding or determination of whether the judicial elections are, in fact, sufficiently similar in their characteristics statistically, to be a reliable indicator in this kind of race, or are they materially different?

A I found that statistically, the judicial elections are materially different.

Q Would it, from a statistical point of view, be inappropriate in your judgment to rely on the one group going back and forth from congressional to judicial or judicial to non-judicial elections?

A Inappropriate in the sense that they seem to be measuring different kinds of elections.

MR. WALBERT: We have no further questions of this witness, Your Honor.

HONORABLE JUDGE BOWEN: Dr. Katz, just one other thing. This graph that you have here, do you present this as a projection of what would, or what might happen, or simply a report of what has happened in the past?

A (Dr. Katz) I presented it as what might happen, since this was the only empirical evidence that I can collect to try and predict the voting pattern in the future.

HONORABLE JUDGE BOWEN: There is no relationship, as far as you know, to the qualifications of the candidate? It is strictly race-based?

A (Dr. Katz) Yes.

HONORABLE JUDGE BOWEN: All right. Ms. Murphy, you may have a question or two.

MS. MURPHY: I have a few minutes of examination

for Dr. Katz. I'm wondering if the Court would like to take it's morning break now, before I start?

HONORABLE JUDGE EDMONDSON: How much time is it going to take?

MS. MURPHY: I expect it will take about twenty minutes.

HONORABLE JUDGE EDMONDSON: What do you think, Judge Bowen? We would like to take the morning recess about 11:00, which gives you about seventeen minutes. Let's see if you can do your twenty in seventeen.

MS. MURPHY: Well, I hope you will give me that extra minute or two if I need it.

HONORABLE JUDGE EDMONDSON: Well, keep in mind that speed is the essence of war.

MS. MURPHY: I hate to think we're actually at war here.

HONORABLE JUDGE BOWEN: Go.

CROSS EXAMINATION BY

MS. MURPHY:

Q Dr. Katz, I'm Donna Murphy, good morning.

A Good morning.

Q And, as you know, I represent the United States. You've read Dr. Lichtman's entire report in this case; is that correct?

A Yes.

Q And the analysis that you were describing that is

set forth on pages 1 to 18 of your report, that analysis is based only on the data that underlies the appendices of Dr. Lichtman's report; is that correct?

A That's correct.

Q So, Dr. Lichtman did, in fact, analyze the elections you were talking about a few minutes ago, the 1990 gubernatorial primary, the 1990, the 1992 labor commissioner primary, and the 1992 congressional election in Districts Eleven and Two, in the table in the body of this report.

A Yes, but they were just partial, it wasn't the complete election.

Q But you analyzed them for the Eleventh Congressional and the Second Congressional Districts?

A Yes.

Q And so, you[r] analysis of the statistical methodology and whatever data issues that you have would only go to the appendices of Dr. Lichtman's report. Is that correct?

A That's correct.

Q With regard to those appendices, in Dr. Lichtman's report, he doesn't rely on any one election in those appendices to draw a conclusion; does he?

A I don't know what he relies on.

Q Well, you've read his report. Does he purport to rely on any particular election percentages?

A Not only does he not rely on any particular one, he never provides an overall assessment of how all the results for all the elections fit together in coming up with an estimate, and overall estimate.

Q So he basically uses those as sort of a background to show some, over 300 elections I believe, what his assessment of racial voting patterns is in Georgia over a wide number of elections. Is that correct?

A That's my understanding as to his intentions, yes.

Q And, have the pages that you have attached to Tabs Three and Four of your report, from Exhibits "168" and "169", you didn't pull those pages out, you pulled those pages out to illustrate the problems that you found; is that correct?

A That's correct.

Q So, these are going to be the ones that show what the problems might be, not necessarily representative of the typical page in your report of Dr. Lichtman's analysis.

A As part of my report, I also give overall summary statistics to the extent to which these problems existed in this set of elections.

Q But my question was with regard to these particular pages that you pulled out, those are designed to illustrate the problem; is that correct?

A Yes.

Q Now with regard to your analysis on pages one through, I believe it is 18 of your report, it basically boils down to a critique of the use of double ecological regression analysis to analyze racial voting patterns; isn't that correct?

A I'm not sure I understand the reference that you gave me. Page 18?

Q Page one through 18, I've been talking about this whole first section - - -

A Oh, one through 18.

Q of your report.

A Yes.

Q Are you familiar with the Supreme Court opinion of *Thornburg v. Gingles*?

A I read that opinion, it's been a while, yes.

Q And you're aware that in that case, the Court relies on, in fact, double ecological regression analysis estimates of voting behavior in drawing its conclusions about racially polarized voting.

A I don't recall whether they relied on double ecological regression estimates, but I think they did rely on some ecological regression estimate.

Q And those ecological regression estimates were performed by Dr. Bernard Grofman; is that right?

A I'm not sure.

Q You don't have any reason to dispute that, though?

A No.

Q Are you aware of any differences between the methodology that Dr. Lichtman employs and the methodology that was employed by the plaintiffs' expert in the *Thornburg v. Gingles* case?

A I'm not familiar with the methodology employed in the *Thornburg v. Gingles* case, so I can't, you know, tell you if there is any differences.

Q So if I - - -

A But I also don't know the extent to which that data had more precincts more amenable to double ecological regression.

Q But if I would represent to you that Dr. Lichtman employed the same analysis as Dr. Grofman did in the *Thornburg v. Gingles* case, you wouldn't have any reason to dispute me on that, would you?

MR. WALBERT: Objection as to the form of that question.

MR. PARKS: The plaintiffs join in that. I don't want to hear any objections, but it's - - -

MR. WALBERT: But he has just testified that he didn't know what happened, and for her to just argue the case and say, "you can't then tell me that - - -"

HONORABLE JUDGE BOWEN: "Well, that might be argumentative, and we'll save that.

Q (Ms. Murphy) Are you aware, Dr. Katz, that in the case of *Garza v. County of Los Angeles*, the type of critique that you're presenting here was presented extensively by a number of different statistical experts concerning analysis performed by both Dr. Lichtman and Dr. Bernard Grofman?

A Yes, but your, you have to keep in mind that the election data makes a big difference as to the appropriateness of methodology - - -

Q I am saying - - -

A The methodology, let me finish, please.

Q I'm sorry.

A A methodology by itself isn't usable for every conceivable data set. Just to say that somebody used ecological regression in one circumstance and it turned out to be a reasonable methodology, doesn't make it reasonable in every circumstance.

Q So you're saying that the Court in the *Garza* case rejected the kind of criticism that you're offering that that wouldn't necessarily lead to the same conclusion concerning your critique of Dr. Lichtman's analysis.

A Not necessarily. The data is totally different.

Q And are you aware that the *Garza* Court did reject those critiques?

A I'm not—I haven't read the *Garza* opinion, and I don't know what the Court did.

Q Now, after, on page, I believe, 20 of your report, you get into a somewhat different area, where you employ your own, if I can call it, *homogen[e]ous precinct analysis* to try and estimate racial voting patterns; is that correct?

A Average racial voting patterns.

Q Average racial voting patterns.

A Yes.

Q And if I understood your earlier testimony, you put three different sets of estimates for three different databases; is that correct?

A Is this on page 20 and 21?

Q Pages 20 through 21.

A Yes, I do.

Q And if I understood your earlier testimony, I take it that the third estimate that you report, which includes judicial elections, you would consider to not be very relevant or germane to this case. Is that correct?

A Well, in terms of relevance or germane to this case, I don't have an opinion on that. It's there to show that

when you throw in the additional judicial elections, that there is a substantial increase in the average percent vote of whites voting for the black candidate.

Q I apologize. I think my question was poorly phrased. In fact, you found a different pattern in the judicial, the state-wide judicial election that you analyzed in terms of voting patterns; is that correct?

A Different from what?

Q Different from the pattern you found in, say, the number two, all the data you analyzed in the number two estimate.

A Yes.

Q So which would you consider if you were trying to estimate voting behavior in a congressional election, congressional primary election. Which of these three sets of estimates that you report would you consider the most, the best estimate?

A Following Dr. Lichtman's political assumptions? Or do you want me to make my own assumptions, what I think would be the best thing to use.

Q Well, what assumptions would you make? I mean, your not a political scientist, are you?

A No.

Q Okay, so what assumptions would you make? Let's take a step backwards.

A Well, from a statistical perspective, I would want Congressional elections to estimate the degree of racial polarized voting in future Congressional elections, and other elections that are related to that.

Q So I'm asking you of these three sets of estimates

you report here, which would you consider the best and the most reliable. I realize they're not perfect, I understand your testimony.

A Okay. I would go with number two.

Q And based on the set of estimates in number two, would you say that there are substantially or significantly different voting patterns among black and white voters according to these estimates?

A Yes, in that the competence interval surrounding these numbers are about, plus or minus, 1%.

Q And do you have an opinion on whether or not these numbers would be indicative of racially polarized voting? Do you have an opinion?

I don't know if you're, if you feel comfortable giving an opinion since your [*sic*] a statistical person, not a political scientist or a political analyst.

A To the degree of whether it's legally significant, or - - -

Q No, just, if you understand the term *racially polarized voting* do you have an opinion on these numbers?

A Well, my opinion is that there is a 95% competence interval to the average percent white voting for black candidates that goes from 27% to 29%. So, to the degree that whites tend to vote for white candidates in the range of the approximately 71 to 73%, that's, there is a tendency for white voters to vote for white candidates.

Q Maybe I should ask the question a little differently. Rather than getting into a term that obviously has some legal implications, these numbers indicate a fair degree of cohesion among white voters and cohesion among black voters; is that correct? Can you agree with that?

A By *cohesion*, I think that's a legal term, too.

Q Oh, is it? Voting similarities? Can we agree on a term?

A Whites tend to vote for white candidates and blacks tend to vote for black candidates according to the results of number two.

Q Thank you. I have a question—I'm not sure if you still have these charts in front of you. This exhibit which you're still looking at here, Plaintiffs' "174", and you indicated that this is a chart indicating the probability of a black candidate getting elected where the percentage of black voters fell at certain intervals; is that correct?

A Yes.

Q And this particular chart we're looking at is the, includes the 1990 gubernatorial and 1992 labor commissioner, and the 1992 Second and Eleventh Congressional District races, as well as the many smaller elections included in Dr. Lichtman's data; is that right?

A Yes.

Q According to your estimates as based on this chart, at approximately—will you agree with me that the probability of a black candidate winning doesn't go above 50% until the percentage of black registered voters reaches approximately 50%?

A Yes. In the range from 45 to 50, that percentage is a 46% probability, and from 50 to 55%, that's a 62% probability. It's about 50%.

Q And, I'm now showing you Defendants' Exhibit "172", which is a similar chart that you did based only on what you termed "the Lichtman database," is that correct?

A That's correct.

Q And if I asked the same question, at what point does the probability of a black candidate winning go above 50%, what would your response be? Is it approximately 50%?

A. Let me check my numbers to be sure. Yes, it's approximately 50%. It's 44% in the range from 45 to 50% black registered voters, and the probability is 55% in the range from 50 to 55%.

C. [CORRECTED] REPORT OF DR. JOSEPH L. KATZ

[State's Exh. 170, at 14 (Part II)-22]

III. *ANALYSIS OF THE RELIABILITY OF THE ESTIMATION OF RACIAL VOTING PERCENTAGES DETERMINED BY DR. LICHTMAN.*

I have analyzed Dr. Lichtman's primary election database that was provided on computer diskettes by the Department of Justice and Dr. Lichtman. The data included on these diskettes encompass the great majority of those elections for which racially polarized voting estimates are given in Appendix 1 and Appendix 2 of Dr. Lichtman's report. I find that the potential difficulties with double ecological regression racial voting estimates, enumerated in the previous section, are present, to varying degrees, in the analysis of these elections.

Approximately 50% of the elections in the Lichtman database have nine or fewer precincts. Approximately 38% of the elections have one or more impossible values for the four turnout estimates. Approximately 32% of the elections have registration data taken from a year that is different from the year of the election.

The racial polarization voting estimates in Dr. Lichtman's report are single numbers or "point estimates" derived as ratios from four estimates of white and black voter turnout for white and black candidates in an election, taken from two separate "least squares" lines. In the context of statistical regression methodology, each of the four voter turnout estimates is subject to some degree of variation from the "true" voter

turnout percentages that are sought.[4] I have constructed 95% confidence intervals for each of the four voter turnout estimates to assess this variation.[5] These confidence intervals, in turn, assist in evaluating the reliability of the racial vote estimates derived from double ecological regression. My detailed analyses of these elections, individually, are contained in State Exhibit 166.

(Illustrative excerpts from this exhibit that pertain to several of the Lichtman elections follow Tab 3)

A brief summary of the results of my confidence interval determinations are the following:

(1) In fully half of the elections in the Lichtman database, the length of the 95% confident interval for the white turnout for white candidates was 26% or greater.

(2) In half of the elections, the length of the confidence intervals for white turnout for black candidates was 18% or greater.

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[4]Hypothetically, this particular analysis would not apply in a case where every precinct in an election was 100% homogeneous, white or black, because in that instance double ecological regression produces exact racial vote percentages. In the Lichtman data, which is comprised entirely of precincts that are at least to some extent mixed, there is necessarily some degree of statistical variability in voter turnout estimates.

[5]I have used 95 percent confidence intervals, which means that, based on the election data analyzed, there is a .95 probability that the "true" voter turnout percentage for an election is contained somewhere in the interval. The 95% level is typically used in statistical analysis.

The statistical regression methodology for constructing confidence intervals is not a perfect answer to the variability issue with ecological regression estimates, but it is the most appropriate measure available.

(3) In half of the elections, the length of the confidence interval for black turnout for black candidates was 23% or greater.

(4) In half of the elections, the length of the confidence interval for black turnout for white candidates was 34% or greater.

The sensitivity of the racial vote percentages to the lengths of these 95% confidence intervals is demonstrated by the following example. Suppose that, in a certain election, double ecological regression predicts a 15% turnout of whites for the white candidate(s) and a 5% turnout of whites for the black candidate(s). Therefore, the estimated percentage of white voters voting for the white candidate(s) is 15/(15 + 5) or 75%, and the estimated percentage of white voters voting for the black candidate(s) is 25%.

Using the above-stated median percentage for our example indicates that there is a 95% chance that the "true" percentage of white registered voters who turned out for the white candidate is between 2% and 28%. Similarly, there is a 95% chance that the "true" white turnout for the black candidate(s) is between -4% and 14%, even though a negative result is a practical impossibility.

Different selections of voter turnout from the two 95% confidence intervals can generate significantly different white vote percentages. For example, if 6% of the white registered voters turn out for the white candidate(s) and 14% for the black candidate(s), then 20% of the white voters still turn out to vote, as in our initial estimate. However, only 30% of the white voters are then predicted to have voted for the white candidate(s), compared to the original 75%.

I also produced 95% confidence intervals, under the

statistical regression methodology, for racial vote estimates based upon single ecological regression for a subset of elections from the Lichtman database.[6] For the most part, these confidence intervals are fairly wide. My detailed analyses of these elections, individually, are contained in State Exhibit 165. (Some illustrative excerpts from this exhibit that pertain to several of the Lichtman elections follow Tab 4)

As part of his results, Dr. Lichtman reports squared correlation coefficients, or R^2 values. Although Dr. Lichtman estimates racial voting behavior based on double ecological regressions, the R^2 reported by Dr. Lichtman pertains to values he has calculated for *single* ecological regression. More significantly, R^2 values do not measure the accuracy or degree of confidence of racial voting estimates derived from single or double ecological regression.[7] Thus, a high R^2 value says nothing about the statistical confidence level applicable to those voting estimates.

I conclude that Dr. Lichtman's small election by small election analyses do not provide a meaningful and reliable description of racial voting behavior in Georgia.

IV. *ANALYSIS OF RACIAL VOTING PERCENTAGES OVER MANY GEORGIA ELECTIONS.*

While Dr. Lichtman's analyses do not lend themselves to a meaningful description of racial voting behavior in

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[6]This subset was the portion of his data provided by the Department of Justice in an earlier diskette.

[7]For exmple, if all the precincts in the election were 100% racially homogenous, single and double ecological regression would produce exact racial voting percentages regardless of the slope of the least squares line. But the R^2 value could be anywhere from 0 to 1.0

Georgia generally, that is not to say that this data is utterly irrelevant to that issue. A better methodology using this data would be to measure overall racial voting behavior by estimating the *average* racial voting percentages over a representative set of Georgia elections. My method differs from that of Dr. Lichtman and Dr. Weber in that I do not estimate racial voting patterns in individual elections, but seek to examine average voting patterns over a number of elections.[8]

Moreover, because of the methodological problems inherent in double ecological regression analysis, and particularly because of the incorrect assumption that voter turnout is a linear function, a methodologically sound way to determine estimates of racial voting patterns is to look at the homogeneous precincts—i.e., those 100 percent one race or the other, or nearly so.[9] To determine overall voting behavior, the results for all of the homogenous precincts for the various elections

[8]While these methodologies can eliminate some of the statistical problems of Dr. Lichtman's analysis, they still do require certain assumptions about voting behavior. For example, a homogeneous precinct analysis reguires the assumption that white voters in a homogenous white precinct vote the same as white voters in a non-homogenous precinct, and the same thing for black voters. That may or may not be true, and it is statistically impossible to determine whether or not it is true.

[9]In this analysis, I have used only those precincts that are 95%-100% one race or the other. Dr. Lichtman does do a similar kind of homogenous precinct analysis, but his determinations consider as "homogeneous" any precinct that is between 80% and 100% one race or the other. Calling precincts "homogeneous" when they have such a large degree of heterogeneity substantially affects the reliability and accuracy of the estimates derived.

are averaged together, weighted by the number of voters in the precincts.[10]

I have also made these determinations of racial voting patterns using homogenous precinct analysis for several different data sets. First is the Lichtman data set, again utilizing all of those elections of his that were provided to me by Dr. Lichtman and the Department of Justice. I have also made the same determinations for an election data set consisting of those in Dr. Lichtman's data set plus other major recent elections involving black-white candidates in Georgia—the Governor's primary election in 1990 (which involved Andrew Young; only a portion of the precincts from this election were included in Dr. Lichtman's data); the 1992 Labor Commissioner primary (which included black candidate Al Scott); and the second and eleventh congressional primary races from 1992.

Finally, I have made the same calculations for the most comprehensive available database of Georgia elections with black-white opponents. This includes the Lichtman data, all of the four large races mentioned above, and all four state-wide black-white judicial races (again, portions of one of these races were already included in Dr. Lichtman's data).

The results are as follows:

LICHTMAN ELECTION DATA (No. 1)

Average Percent Whites Voting for Black Candidates	*Average Percent Blacks Voting For White Candidates*
22%	23%

[10]"Weighting" gives a proportionally greater weight to a precinct with more voters than one with less. This avoids another problem inherent in the presentation by Dr. Lichtman which makes no distinction between an election that may have occurred in a small county or district with a few voters and one that may have occurred from an election in a county or a district with far more voters.

LICHTMAN ELECTIONS PLUS REST OF GOVERNOR, LABOR AND CONGRESS (No. 2)

Average Percent Whites Voting for Black Candidates	*Averace Percent Blacks Voting For White Candidates*
28%	20%

LICHTMAN ELECTIONS PLUS REST OF GOVERNOR LABOR, CONGRESS AND JUDICIAL (No. 3)

Average Percent Whites Voting for Black Candidates	*Average Percent Blacks Voting For White Candidates*
38%	20%

V. *AN ANALYSIS OF THE LIKELIHOOD OF BLACK CANDIDATES PREVAILING OVER WHITE OPPONENTS IN DISTRICTS OF VARYING PERCENTAGES OF BLACK VOTERS.*

I have been asked to perform a statistical analysis, if possible, that predicts the likelihood of black candidates prevailing over white opponents, based on the existing data, as a function of the racial percentage of the election district. Neither Dr. Lichtman nor Dr. Weber have done such an analysis.

First, I determined the frequency distribution for black candidates winning individual precincts in the available data sets as a function of the racial composition of those precincts. From that frequency distribution, I then calculated the probabilities of black candidates winning in entire election districts as a function of the percentage of black registered voters in the district. These results were graphically plotted for several data sets. In making these plots, I have used intervals of five

percent (for example, a range of 40 percent to 45 percent, and then 45 percent to 50 percent, of black registered voters). The results of these probability analyses are contained after Tab 5.

Generally speaking, the results of this analysis indicate that black candidates in the several election databases have relatively low chances of winning against white opponents when the percentage of black registered voters is relatively small. However, the chances of black success are by no means zero even when the percentage of black registered voters in a district may be as low as 25 or 30 percent. Then, the likelihood of a black candidate winning the election and defeating his white opponents increases steadily until the percent of black registered voters becomes a significant majority (approximately 55-60 percent, although the number varies depending on the specific election database). The likelihood of an African-American candidate winning plateaus in the 70-80 percent range, and then increases slowly as the percentage of black registered voters increases on up to 100 percent.

DR. LICHTMAN'S PRIMARY ELECTION DATABASE
(RECEIVED 06/94)
BALDWIN COUNTY
COUNTY COMMISSIONER (1) 1988
INITIAL ELECTION
VOTER REGISTRATION, 1988
WHITE VOTER REGISTRATION, 5506
BLACK VOTER REGISTRATION, 2241
5 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 41%
ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): 16%

SQUARED CORRELATION (R-SQ)
WHITE: 0.0122
SQUARED CORRELATION (R-SQ)
BLACK: 0.0212

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE
WHITE: 0.8595
P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE
BLACK: 0.8153

ESTIMATED TURNOUT

	WHITE VOTERS	BLACK VOTERS	TOTAL
FOR WHITE CAND(S)	3.5% (193)	6.6% (149)	341
FOR BLACK CAND(S)	5.0% (276)	1.3% (29)	305
ESTIMATED TOTAL TURNOUT	8.5% (469)	7.9% (178)	646

TURNOUT CONFIDENCE INTERVALS

	WHITE VOTERS	BLACK VOTERS
FOR WHITE CAND(S)	-26% TO 33%	-34% TO 47%
FOR BLACK CAND(S)	-21% TO 31%	-35% TO 38%

DR. LICHTMAN'S PRIMARY ELECTION DATABASE
(RECEIVED 06/94)
BRANTLEY COUNTY
COUNTY COMMISSIONER (3) 1980
RUNOFF ELECTION
VOTER REGISTRATION, 1980
WHITE VOTER REGISTRATION, 4549
BLACK VOTER REGISTRATION, 294
9 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 56%
ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): 453%

SQUARED CORRELATION (R-SQ)
WHITE: 0.2912
SQUARED CORRELATION (R-SQ)
BLACK: 0.1024

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE
WHITE: 0.1337
P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE
BLACK: 0.4013

ESTIMATED TURNOUT

	WHITE VOTERS	BLACK VOTERS	TOTAL
FOR WHITE CAND(S)	41.7% (1896)	-69.1% (-203)	1693
FOR BLACK CAND(S)	32.5% (1479)	88.7% (261)	1740
ESTIMATED TOTAL TURNOUT	74.2% (3375)	19.6% (58)	3433

TURNOUT CONFIDENCE INTERVALS

	WHITE VOTERS	BLACK VOTERS
FOR WHITE CAND(S)	12% TO 71%	-228% TO 89%
FOR BLACK CAND(S)	4% TO 61%	-64% TO 241%

DR. LICHTMAN'S PRIMARY ELECTION DATABASE
(RECEIVED 06/94)
BROOKS COUNTY
SCHOOL BOARD 1986
RUNOFF ELECTION
VOTER REGISTRATION, 1986
WHITE VOTER REGISTRATION, 4120
BLACK VOTER REGISTRATION, 2272
11 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 152%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): 66%

SQUARED CORRELATION (R-SQ)
WHITE: 0.104

SQUARED CORRELATION (R-SQ)
BLACK: 0.8814

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE
WHITE: 0.3334

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE
BLACK: 0

ESTIMATED TURNOUT

	WHITE VOTERS	BLACK VOTERS	TOTAL
FOR WHITE CAND(S)	9.6% (397)	23.2% (526)	923
FOR BLACK CAND(S)	-3.3% (-136)	44.4% (1010)	874
ESTIMATED TOTAL TURNOUT	6.3% (261)	67.6% (1536)	1797

TURNOUT CONFIDENCE INTERVALS

	WHITE VOTERS	BLACK VOTERS
FOR WHITE CAND(S)	-8% TO 27%	-1% TO 47%
FOR BLACK CAND(S)	-11% TO 5%	34% TO 55%

DR. LICHTMAN'S PRIMARY ELECTION DATABASE
(RECEIVED 06/94)
COLUMBIA COUNTY
COUNTY COMMISSIONER (5) 1984
RUNOFF ELECTION
VOTER REGISTRATION, 1983
WHITE VOTER REGISTRATION, 12805
BLACK VOTER REGISTRATION, 1843
12 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 59%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): 70%

SQUARED CORRELATION (R-SQ)
WHITE: 0.2051

SQUARED CORRELATION (R-SQ)
BLACK: 0.6216

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE WHITE: 0.1393

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE BLACK 0.0023

ESTIMATED TURNOUT

	WHITE VOTERS	BLACK VOTERS	TOTAL
FOR WHITE CAND(S)	15.6% (2001)	26.5% (489)	2491
FOR BLACK CAND(S)	11.0% (1403)	62.3% (1149)	2552
ESTIMATED TOTAL TURNOUT	26.6% (3405)	88.9% (1638)	5043

TURNOUT CONFIDENCE INTERVALS

	WHITE VOTERS	BLACK VOTERS
FOR WHITE CAND(S)	7% TO 24%	13% TO 40%
FOR BLACK CAND(S)	-4% TO 26%	38% TO 87%

DR. LICHTMAN'S PRIMARY ELECTION DATABASE
(RECEIVED 06/94)
COWETA JUDICIAL CIRCUIT
PRESIDENT 1988
PRESIDENTIAL PREFERENCE ELECTION
VOTER REGISTRATION, 1986
WHITE VOTER REGISTRATION, 5948
BLACK VOTER REGISTRATION, 3149
12 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 103%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): 101%

SQUARED CORRELATION (R-SQ) WHITE: 0.4238

SQUARED CORRELATION (R-SQ) BLACK: 0.9119

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE WHITE: 0.0219

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE BLACK: 0

ESTIMATED TURNOUT

	WHITE VOTERS	BLACK VOTERS	TOTAL
FOR WHITE CAND(S)	23.3% (1386)	-0.3% (-8)	1378
FOR BLACK CAND(S)	-0.7% (-39)	42.9% (1351)	1312
ESTIMATED TOTAL TURNOUT	22.6% (1347)	42.6% (1343)	2690

TURNOUT CONFIDENCE INTERVALS

	WHITE VOTERS	BLACK VOTERS
FOR WHITE CAND(S)	11% TO 36%	-16% TO 15%
FOR BLACK CAND(S)	-7% TO 5%	35% TO 50%

DR. LICHTMAN'S PRIMARY ELECTION DATABASE
(RECEIVED 06/94)
FRANKLIN COUNTY
BOARD OF EDUCATION 1984
RUNOFF ELECTION
VOTER REGISTRATION, 1984
WHITE VOTER REGISTRATION, 7793
BLACK VOTER REGISTRATION, 429
13 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 49%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): 117%

SQUARED CORRELATION (R-SQ) WHITE: 0.0315

SQUARED CORRELATION (R-SQ) BLACK: 0.2361

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE WHITE: 0.5617

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE BLACK: 0.0923

ESTIMATED TURNOUT

	WHITE VOTERS	BLACK VOTERS	TOTAL
FOR WHITE CAND(S)	24.9% (1941)	1.7% (7)	1948
FOR BLACK CAND(S)	26.5% (2061)	-11.8% (-50)	2011
ESTIMATED TOTAL TURNOUT	51.4% (4002)	-10.1% (-43)	3959

TURNOUT CONFIDENCE INTERVALS

	WHITE VOTERS	BLACK VOTERS
FOR WHITE CAND(S)	10% TO 40%	-97% TO 101%
FOR BLACK CAND(S)	19% TO 34%	-65% TO 41%

DR. LICHTMAN'S PRIMARY ELECTION DATABASE
(RECEIVED 06/94)
IRWIN COUNTY
COUNTY COMMISSIONER (1) 1980
INITIAL ELECTION
VOTER REGISTRATION, 1981
WHITE VOTER REGISTRATION, 2909
BLACK VOTER REGISTRATION, 560
10 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 57%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): -2677%

SQUARED CORRELATION (R-SQ) WHITE: 0.0604

SQUARED CORRELATION (R-SQ) BLACK: 0.2961

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE WHITE: 0.4937

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE BLACK: 0.1039

ESTIMATED TURNOUT

	WHITE VOTERS	BLACK VOTERS	TOTAL
FOR WHITE CAND(S)	42.2% (1228)	16.7% (93)	1321
FOR BLACK CAND(S)	32.3% (939)	-16.1% (-90)	849
ESTIMATED TOTAL TURNOUT	74.5% (2167)	0.6% (3)	2170

TURNOUT CONFIDENCE INTERVALS

	WHITE VOTERS	BLACK VOTERS
FOR WHITE CAND(S)	15% TO 70%	-64% TO 97%
FOR BLACK CAND(S)	12% TO 53%	-75% TO 43%

DR. LICHTMAN'S PRIMARY ELECTION DATABASE
(RECEIVED 06/94)
IRWIN COUNTY
COUNTY COMMISSIONER (1) 1980
RUNOFF ELECTION
VOTER REGISTRATION, 1981
WHITE VOTER REGISTRATION, 874
BLACK VOTER REGISTRATION, 115
6 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 52%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): -32%

SQUARED CORRELATION (R-SQ)
WHITE: 0.014

SQUARED CORRELATION (R-SQ)
BLACK: 0.1394

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE
WHITE: 0.8233

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE
BLACK: 0.466

ESTIMATED TURNOUT

	WHITE VOTERS	BLACK VOTERS	TOTAL
FOR WHITE CAND(S)	37.7% (329)	57.3% (66)	395
FOR BLACK CAND(S)	34.3% (300)	-13.9% (-16)	284
ESTIMATED TOTAL TURNOUT	72.0% (629)	43.5% (50)	679

TURNOUT CONFIDENCE INTERVALS

	WHITE VOTERS	BLACK VOTERS
FOR WHITE CAND(S)	-29% TO 104%	-171% TO 285%
FOR BLACK CAND(S)	-14% TO 83%	-179% TO 151%

DR. LICHTMAN'S PRIMARY ELECTION DATABASE
(RECEIVED 06/94)
JENKINS COUNTY
COUNTY COMMISSIONER (1) 1972
RUNOFF ELECTION
VOTER REGISTRATION, 1972
WHITE VOTER REGISTRATION, 2940
BLACK VOTER REGISTRATION, 1152
7 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 54%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): 49%

SQUARED CORRELATION (R-SQ)
WHITE: 0.0621

SQUARED CORRELATION (R-SQ)
BLACK: 0.1589

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE
WHITE: 0.5899

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE
BLACK: 0.3758

ESTIMATED TURNOUT

	WHITE VOTERS	BLACK VOTERS	TOTAL
FOR WHITE CAND(S)	24.3% (715)	60.6% (698)	1413
FOR BLACK CAND(S)	20.3% (598)	58.9% (678)	1276
ESTIMATED TOTAL TURNOUT	44.6% (1312)	119.5% (1377)	2689

TURNOUT CONFIDENCE INTERVALS

	WHITE VOTERS	BLACK VOTERS
FOR WHITE CAND(S)	-8% TO 57%	-16% TO 137%
FOR BLACK CAND(S)	-0% TO 41%	11% TO 107%

LICHTMAN DATA (REVISED)
BALDWIN COUNTY
COUNTY COMMISSIONER (1) 1988
INITIAL ELECTION
VOTER REGISTRATION, 1988
5 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 17.7 %

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): -40%

CONFIDENCE INTERVAL WHITE VOTE FOR WHITE CANDIDATE(S): -3.9% TO 39.3 %

CONFIDENCE INTERVAL BLACK VOTE FOR BLACK CANDIDATE(S): -69.9% TO -10.1%

SQUARED CORRELATION (R-SQ): 0.92

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE: 0.01

LICHTMAN DATA (REVISED)
BRANTLEY COUNTY
COUNTY COMMISSIONER (3) 1980
RUNOFF ELECTION
VOTER REGISTRATION, 1980
9 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 56.4%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): 164.9%

CONFIDENCE INTERVAL WHITE VOTE FOR WHITE CANDIDATE(S): 16.9% TO 95.9%

CONFIDENCE INTERVAL BLACK VOTE FOR BLACK CANDIDATE(S): -47.5% TO 377.3%

SQUARED CORRELATION (R-SQ): 0.21

P-VAI UE MEASURE OF STATISTICAL SIGNIFICANCE:
0.214

LICHTMAN DATA (REVISED)
BROOKS COUNTY
SCHOOL BOARD 1986
RUNOFF ELECTION
VOTER REGISTRATION, 1986
11 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 87.1%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): 100%

CONFIDENCE INTERVAL WHITE VOTE FOR WHITE CANDIDATE(S):
54.3% TO 119.9%

CONFIDENCE INTERVAL BLACK VOTE FOR BLACK CANDIDATE(S):
55.7% TO 144.3%

SQUARED CORRELATION (R-SQ): 0.51

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE:
0.014

LICHTMAN DATA (REVISED)
COLUMBIA COUNTY
COUNTY COMMISSIONER (5) 1984
RUNOFF ELECTION
VOTER REGISTRATION, 1983
12 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 55.7%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): 82.3%

CONFIDENCE INTERVAL WHITE VOTE FOR WHITE CANDIDATE(S):
33.6% TO 77.8%

CONFIDENCE INTERVAL BLACK VOTE FOR BLACK CANDIDATE(S):
46.9% TO 117.7%

SQUARED CORRELATION (R-SQ): 0.4

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE:
0.028

LICHTMAN DATA (REVISED)
IRWIN COUNTY
COUNTY COMMISSIONER (1) 1980
INITIAL ELECTION
VOTER REGISTRATION, 1981
10 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 56.5%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): 14.5%

CONFIDENCE INTERVAL WHITE VOTE FOR WHITE CANDIDATE(S):
22.8% TO 90.2%

CONFIDENCE INTERVAL BLACK VOTE FOR BLACK CANDIDATE(S):
-84.4% TO 113.4%

SQUARED CORRELATION (R-SQ): 0.06

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE:
0.514

LICHTMAN DATA (REVISED)
IRWIN COUNTY
COUNTY COMMISSIONER (1) 1980
RUNOFF ELECTION
VOTER REGISTRATION, 1981
6 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 52.1%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): -6.1%

CONFIDENCE INTERVAL WHITE VOTE FOR WHITE CANDIDATE(S): -24.8% TO 129%

CONFIDENCE INTERVAL BLACK VOTE FOR BLACK CANDIDATE(S): -268.4% TO 256.2%

SQUARED CORRELATION (R-SQ): 0.07

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE: 0.604

LICHTMAN DATA (REVISED)
JENKINS COUNTY
COUNTY COMMISSIONER (1) 1972
RUNOFF ELECTION
VOTER REGISTRATION, 1972
7 DATA POINTS

ESTIMATED PERCENT OF WHITE VOTES CAST FOR WHITE CANDIDATE(S): 53.9%

ESTIMATED PERCENT OF BLACK VOTES CAST FOR BLACK CANDIDATE(S): 50.9%

CONFIDENCE INTERVAL WHITE VOTE FOR WHITE CANDIDATE(S): 18.2% TO 89.6%

CONFIDENCE INTERVAL BLACK VOTE FOR BLACK CANDIDATE(S): -32.1% TO 133.9%

SQUARED CORRELATION (R-SQ): 0

P-VALUE MEASURE OF STATISTICAL SIGNIFICANCE: 0.948

D. TESTIMONY OF ALLAN J. LICHTMAN

[Excerpts from Trial Testimony 4 T. Tr. p. 199, line 15 to p. 207, line 22; p. 227, line 17 to p. 228, line 24]

MS. MURPHY: For the Court's reference, Dr. Lichtman has prepared a report which is labeled as DOJ Exhibit "24" as well as a supplemental report which is labeled DOJ Exhibit "41". I would ask that both of those be admitted into evidence.

Dr. Lichtman will be discussing them here.

HONORABLE JUDGE BOWEN: "24" and "41" are admitted.

Q (Ms. Murphy) How did you conduct your analysis of racially polarized voting, Dr. Lichtman?

A I used a two-method standard in the field and about which I've written. One is a ecological regression analysis which examines all the precincts within a district. And, the other one is extreme case analysis which focuses on the most heavily white and the most heavily black precincts in a district, either it be 80% or for Districts Eleven and Two at the 90% level.

These are the same methodologies utilized by Dr. Bernard Grofman, the expert for Plaintiffs in *Thornburg versus Gingles*, and they are the same methods that both Dr. Grofman and I used as co-experts in the Los Angeles County redistricting matter, *Garza versus Los Angeles County*, and they are discussed in my books and articles.

Q Were you able to draw any conclusions concerning racially polarized voting?

A Yes.

Q And, what were those?

A First of all, I examined more than 300 elections statewide in districts throughout the state covering a great variety of different public offices and spanning about a 20-year period.

What I found was a very common pattern among those more than 300 elections such that there was the presence of racially polarized voting. Specifically, I found that black voters were usually cohesive behind black candidates running in these elections and I should say these are all black versus white contests that empirically black voters overwhelmingly tended to favor black candidates in more than 300 black versus white contests.

And, conversely, white voters usually in overwhelming numbers tended to favor the white candidates competing in those elections. And, I found that there was no particular pattern over time either suggesting an increase or a diminution of racially polarized voting. Rather, you have the presence of racially polarized voting throughout the period.

This is confirmed both by ecological regression analysis and the analysis that spotlights the heavily black and heavily white precincts. It is also sustained by the standard checks that Dr. Grofman and I employ and that's discussed in the literature for reliability of these results.

Q Were there any exceptions to the pattern of racially polarized voting that you found?

A There are always some exceptions. In social science we do not look for uniform patterns, we look for unusual patterns. And, perhaps the most notable exception would be judicial elections with black incumbents. But, the exceptions are few.

Q Are the results of this analysis you've been discussing reported in the appendices to your report?

A Yes, Appendix 1 and 2, I report the ecological regression and the extreme case analysis, respectively.

Q And, are most of the elections reported in the appendices, were they 1990 or prior? Were most of those elections for 1990 going back to 1970?

A Yes, the great bulk of the analyses I did was done when only elections through 1990 was available. It should also be noted that these elections focus on Democratic primary and runoff elections.

And, I believe those to be the significant elections in the matter before us as well because it is the Democratic primaries and runoffs that essentially determine who is going to be elected from the Eleventh and Second Congressional Districts.

Q In your analysis of racially polarized voting, did you also do some analyses that focus specifically on the Eleventh and the Second Congressional District?

A Yes, I did.

Q And, what was that analysis?

A What I was able to do for those districts specifically was examine elections conducted on a statewide basis, but isolated within the boundaries of Districts Eleven and Two. I was able to analyze some eight such elections for District Eleven, including of course, the 1992 primary and runoff election in those districts.

These are all black versus white primary or runoff elections in District Eleven and I was able to examine some seven such statewide black versus white elections specifically within the boundaries of District Two as well.

Q And, did you draw any conclusions from that analysis?

A Yes. What I found that when you spotlighted elections within the Eleventh and Second Congressional District, was that voting was indeed polarized along racial lines with a very substantial majority of black voters usually voting for the black candidate or candidates in these elections and likewise a very substantial majority of white voters usually voting for the white candidate or candidates in these elections and that was true of both the Eleventh and Second Congressional Districts.

Q Were there any exceptions to that pattern that you just discussed?

A Yes, there were.

Q What were they?

A When you look at the Democratic Primary and Democratic Runoff elections within the confines of District Eleven, you find essentially that there are two exceptions, both elections involving multiple black candidates and both of them primary elections only.

In the District Eleven primary for Congress, the percent of white voters voting for black candidates was a majority, 55%, and in the 1992 Democratic Primary for Labor Commissioner, the percent of white voters voting for black candidates was 45%.

Within District Two there is one exception and that exception is the 1992 Democratic Primary for Labor Commissioner in which 52% of white voters voted for black—the two black candidates in the initial primary.

Q For each of those three elections you just noted, did you also examine the Democratic Primary runoffs?

A Yes, each of those elections went to a runoff and you found when you went to the runoff elections polarization substantially increased and returned to the more usual patterns of substantial majorities of black voters voting for the single black candidate and substantial majorities of white voters voting for the single white candidate.

In all cases, either blacks for blacks or whites for whites, it was in excess of 70%.

Q Are the results of that analysis you've just been discussing in Districts Eleven and Two reported in Tables 1 through 4 of your report?

A Yes.

Q Do you have a definition, Dr. Lichtman, of politically significant racially polarized voting?

A Yes.

Q And, what would that be?

A Racially polarized voting exists in a kind of a raw sense when blacks and whites differ in their choice of candidates. It becomes politically significant when differences in the choice of candidates has an impact upon the ability of black voters, or generally minority voters, to elect candidates of their choice.

Q And, did you apply that definition here in this analysis that you did?

A Yes.

Q And, what was your conclusion?

A As follows. Given the substantial differences in the usual patterns of black and white voting, there is certainly the potential for voting to become politically significant. That is, there is certainly the potential for

white-black voting, given black cohesion to have an impact on the ability of black voters to elect candidates of their choice.

However, in—particularly in the Eleventh District, but in the Eleventh and the Second District, there turns out to be a sufficient concentration of minority voters that both majority black districts such that even given the polarization the black voters are able to elect candidates of their choice. So, specific to these districts politically significant racially polarized voting does not emerge.

Q Do you have an opinion as to whether if the black percentages, the black percentage of population in these districts was reduced, whether voting might become politically significantly racially polarized?

MR. PARKS: Your Honor, if I might. I think that there's a pretty significant difference in the percentage of those districts and I think we need to ask that question by district.

HONORABLE JUDGE BOWEN: Do you mind separating it?

A I certainly don't.

HONORABLE JUDGE BOWEN: All right.

A First of all, for the Eleventh District, you're dealing with a district that's around 60% in its voting age population. Under conditions of racially polarized voting, to the extent you reduce the percentages of minorities in the district, you are going to reduce the opportunities for minority voters to elect candidates of choice.

So, as you move down from approximately 60% towards the 50% level and above, you are obviously going to increase the potential for politically significant racially polarized voting. And, if this were to become a

majority white or perhaps even a near-majority white district, it is my view you would have politically significant racially polarized voting.

Obviously, in the Second District, because you're dealing with a much lower initial percentage, you have a smaller margin. And, in this case, smaller reductions wouldn't take much to transform that district into a majority white district and you would again have the potential for politically significant racially polarized voting to operate.

Q (Ms. Murphy) Moving on to the second issue in your report, Dr. Lichtman, did you do some examination of socioeconomic differences and political consequences?

A Yes, the second thing I looked at was the extent of differences in the socioeconomic standing of whites and blacks within the State of Georgia and then at a question of whether such socioeconomic differences, if they emerge, have political consequences for the ability of blacks to participate fully in the political process and elect candidates of their choice.

Q How did you analyze that question?

A First, with respect to socioeconomic differences it's quite simple. I looked at the 1990 U.S. Census of Housing and Population. I looked at standard measures of income occupation and education and, indeed, would find on such standard measures that there are substantial differences between blacks and whites such that blacks and whites—such that whites do have a substantially higher socioeconomic status.

Secondly, I looked at the political consequences of such differences in socioeconomic status. And, the political consequences are that differences in socioeconomic status affect the political resources, particularly under

conditions of racially polarized voting available to groups, such things as campaign finance, facilities, well-educated candidates, transportation and communication.

It's also well known that socioeconomic differences can have an impact on turnout, the participation of the advantaged versus the disadvantaged group. It's always a barrier, but sometimes the disadvantaged group is able to overcome that barrier. That was not the case, however, in the State of Georgia.

* * *

Q (Ms. Murphy) What other analysis is included or reported in your supplemental report, Dr. Lichtman?

A Let's see. The second thing I did was—and these, I believe are the only elections I looked at that were not my primary focus elections, Democratic Primaries and particular runoffs. I looked at some non-partisan judicial elections conducted statewide in 1990 and 1992 that you could look at in Districts Eleven and Two.

Q And, why did you analyze those judicial elections, Dr. Lichtman?

A Well, there have been some judicial elections in my early appendix because I included some results from a previous report I had done and but more specifically Dr. Weber had analyzed these elections and given some opinions about it and I thought it prudent, given that I had time between the two reports, to do the analysis myself.

Q And, what conclusions were you able to draw from analyzing these elections?

A Well, I think it's quite clear that the patterns in these judicial elections are different than the overwhelming patterns in the other elections. And, in my

view, as I said, these are the only elections that weren't Democratic Primaries or runoffs, they're a very limited utility. They are non-partisan.

And, in addition, each of them includes an appointed black incumbent and I've now had experience analyzing judicial elections throughout the south in numerous states and my experience is that judicial elections with black incumbents are quite different from other elections. They're quite different from non-judicial elections and they're even different from open-seat black versus white judicial elections. So, while I've included them in here for completeness, I believe they're of minimal relevance and certainly do not affect any prior conclusions.

E. REPORT [BY DR. ALLAN J. LICHTMAN] ON ISSUES RELATING TO GEORGIA CONGRESSIONAL DISTRICTS

[Defendants' Exh. 24, at p. 3 line 7-p. 20, line 1; pp. 30-31, & Charts from Appendix 1]

METHODOLOGY AND DATA

The main data base for this study consists of precinct-by-precinct election returns for numerous black versus white elections held statewide and within various jurisdictions in the state of Georgia. The data base also includes official, state of Georgia precinct-by-precinct registration data, with black and white registrants separately identified. The U.S. Department of Justice and the state of Georgia provided the election returns, registration data, and racial identification of candidates.

The analysis of racially polarized voting focuses on Democratic primary and runoff elections. Districts 11 and 2 are sufficiently Democratic that a primary victory is virtually tantamount to election. Their Democratic predominance is documented by overwhelming Democratic victories in statewide general elections within the precincts of Districts 11 and 2 as well as by the strongly Democratic results of the 1992 general elections for Congress in Districts 11 and 2.[1]

Standard statistical methods were employed to explore patterns of racially polarized voting by blacks and whites as well as patterns of voter turnout by blacks and whites. An examination of racially polarized

[1]As part of the data it prepared for the redistricting process the state "recompiled" general election returns for the precincts of proposed Districts 11 and 2. This information is contained in Reapportionment Services Office, Georgia General Assembly, "'Conference Report," March 31, 1992.

voting considers both the cohesion of the black electorate and bloc voting by the white electorate.

The analysis of black voter cohesion and bloc voting by whites follows procedures recognized by the Supreme Court in *Thornburg v. Gingles*, 478 U.S. 30 (1986) and applied by the Court to single-member districts plans in *Quilter v. Voinovich* 113 S.Ct 1149 (1993). Appropriate procedures for analyzing these issues are also discussed in the social science literature. [2]

The voting behavior of whites and blacks in Georgia is estimated by comparing the racial composition of the various voting precincts to the division of the vote among competing candidates in each precinct. Ecological regression, the standard method for inferring the behavior of population groups from data collected for aggregate units, was used to estimate the voting behavior of blacks and whites.

The ecological regression procedure for analyzing the behavior of voter groups is set forth in my book, *Ecological Inference* (Sage Series on Quantitative

[2]See, for example, Chandler Davidson, ed., *Minority Vote Dilution* (Washington, DC: Howard University Press, 1984); Richard Engstrom, "Quantitative Evidence in Vote Dilution Litigation: Political Participation and Polarized Voting," *Urban Lawyer* (1985); James Loewen and Bernard Grofman, "Comment: Recent Developments in Methods Used in Voting Rights Litigation," *Urban Lawyer* (1989); Allan J. Lichtman, "Passing the Test: Ecological Regression in the Los Angeles County Case and Beyond," *Evaluation Review* (1991); Bernard Grofman and Chandler Davidson, eds., *Controversies in Minority Voting: The Voting Rights Act in Perspective* (1992); Bernard Grofman, Lisa Handley, and Richard G. Niemi, *Minority Representation and the Quest for Voting Equality* (Cambridge: Cambridge University Press, 1992); Allan J. Lichtman and J. Gerald Hebert, "A General Theory of Vote Dilution," *La Raza Law Journal* (1993).

Applications in Social Science, 1978: with Laura Irwin Langbein) and analyzed, in depth, in my December, 1991 article in *Evaluation Review.*

Black and white voting can also be examined through a technique termed extreme case analysis that examines the actual choices of voters in the most heavily black and the most heavily white precincts in a jurisdiction. The extreme case results will not correspond exactly with the results of ecological regression analysis. The 80%+ and 90%+ black and white precincts used in this study obviously include no mid-range precincts and include some voters of the other race.[3] Unlike ecological regression, extreme case analysis involves no inferential procedures. It simply tallies the votes actually cast for black and white candidates in the heavily black and heavily white precincts.

The primary techniques of ecological regression and extreme case analysis are supplemented by the examination of squared correlation coefficients and measures of statistical significance. The squared correlation coefficient (R^2) measures the degree to which voting for competing candidates can be predicted by knowledge of the racial composition of precincts alone. The value of R^2 varies from 0 to 1.0. Although no values arbitrarily define the distinction between "high" and "low," political analysts often rely on coefficients with values of about .25 and consider values of about .5 or greater as indicative of a strong association between variables.

[3]For individual county analyses the 80 percent cutoff is used for extreme case analysis. For the populous congressional districts, with more heavily white and heavily black precincts, the 90 percent cutoff is used.

Conventionally, social scientists accept as statistically significant results of either .05 (corresponding to a 5 in 100 probability of obtaining the results under the chance hypothesis) or the more stringent .01 (corresponding to a 1 in 100 probability of obtaining the results under the chance hypothesis). Virtually all findings of this study are statistically significant at the .01 level.

Election results for the eleventh and second congressional districts in Georgia included precincts that are split between two congressional districts. There are about 20 split precincts of some 250 precincts in District 11 and about 30 split precincts of some 270 precincts in District 2. Split precincts were treated in two ways. First, the analysis excluded the split precincts entirely, incorporating only the precincts entirely within District 11 and District 2 respectively. Unless the voting of whites and blacks in the split precincts differed fundamentally from the whites and blacks in the undivided precincts, this procedure should have little or no effect on the results of the statistical analysis.

Second, as a check on the first analysis, the voter registration in split precincts was proportionally allocated to each congressional district studied. The proportion of registration in a split precinct to be statistically allocated to a congressional district was determined by examining the ratio of the voter turnout in the split precinct to the registered voters in that precinct.[4] The

[4]If the ratio of voter turnout to registration for a given split precinct was equal to greater than the mean ratio for all undivided precincts, the entirety of the registration in the split precinct was statistically allocated to the congressional district. If that ratio for a given split precinct was below the mean ratio for all undivided precincts, only a proportion of the registration in the split precinct was statistically allocated to the congressional district. If, for example, the ratio of turnout to registration was half that of the mean ratio for undivided precincts, one-half of the registration in the precinct was allocated to the congressional district.

results from the analysis using proportionally allocated split precincts were nearly identical to the results obtained from the analysis that excluded split precincts.

RESULTS I: RACIALLY POLARIZED VOTING

The inquiry into racially polarized voting includes four levels of analysis: counties throughout the state, counties within the eleventh and second congressional districts, statewide elections partitioned within the boundaries of congressional districts 11 and 2, and 1992 congressional elections within these districts.

Ecological regression analysis of elections in counties throughout the state shows a strong pattern of racially polarized voting for about a 20 year period through 1990, involving a variety of public offices. Ecological regression analysis of more than 150 elections, reported in Appendix 1, shows high levels of black cohesion as black voters usually voted overwhelmingly for black candidates. Similarly, the ecological regression results in Appendix 1 show high levels of white bloc voting as whites voters usually voted overwhelmingly against black candidates and for their white competitors.

The findings of ecological regression analysis are corroborated by the actual results of elections in precincts that are 80 percent or more black or white, respectively, in their registered voters. Additional elections are included in the extreme case analysis because some counties with heavily white precincts did not include sufficiently concentrated populations of black registrants for ecological regression analysis.[5] The results of extreme case analysis, reported in Appendix 2 show that black candidates almost always garnered majorities in heavily black precincts, but almost always failed to do so in heavily white precincts.

The ecological regression and extreme case analyses conducted throughout the state show no diminution of racially polarized voting over time. Patterns of racially polarized voting remain strong throughout the period studied.

Similarly, patterns of racially polarized voting are strong in the particular counties included within congressional districts 11 and 2. The bulk of the counties included within districts 11 and 2 are represented in the study. The following counties included in Appendices 1 or 2 of this study are entirely or in part within District 11: Baldwin, Burke, Chatham, DeKalb, Effingham, Greene, Hancock, Henry, Jasper, Jefferson, Jenkins, Putnam, Richmond, Twiggs, Warren, Washington, Wilkes, and Wilkinson. The following counties included in Appendices 1 or 2 are entirely or in part within District 2: Baker, Bibb, Brooks, Calhoun, Clay, Crawford, Decatur, Dooly, Dougherty, Early, Grady, Houston, Macon, Marion, Meriwether, Muscogee, Peach, Quitman, Randolph, Seminole, Stewart, Talbot, Taylor, Terrell, Thomas, and Webster.

The finding of racially polarized voting is likewise strong when results of statewide black versus white elections are isolated for the precincts of congressional districts 11 and 2 respectively. The results of ecological

[5]There are also some counties for which ecological regression was performed that did not include 80%+ black or white precincts. These counties are not included in the extreme case tables in Appendix 2.

regression and extreme case analyses for statewide elections within District 11 are reported in Table 1 below. In all six elections, Table 1 shows that at least 65 percent of black voters were cohesive behind the black candidates. In 5 of 6 elections, at least 89 percent of black voters voted for the black candidates.

With respect to white bloc voting, in 5 of 6 elections, an overwhelming majority of white voters bloc voted against the black candidates. In these five elections, no more than 26 percent of white voters supported black candidates. This means that at least 74 percent of white voters bloc voted for white candidates. The only exception to this pattern is the 1992 democratic primary for Labor Commissioner, which included one white and two black candidates, one of whom was an appointed black incumbent. In that election only a small majority of white voters voted against the black candidates. In the runoff election for Labor Commissioner, however, Table 1 discloses that polarization significantly increased; only 26 percent of white voters voted for the black incumbent candidate, whereas 92 percent of black voters voted for the black candidate.

The results of ecological regression and extreme case analyses for statewide elections within District 2 are reported in Table 2 below.[6] In all five elections, Table 2 shows that at least 77 percent of black voters were cohesive behind the black candidates. In 4 of 5 elections, an overwhelming majority of white voters bloc voted against the black candidates. In these four elections, no more than 21 percent of white voters supported black candidates. This means that at least 79 percent of white voters bloc voted for white candidates. Again, the only

[6]Sufficient data was not available to include the 1984 presidential preference primary. Thus five rather than six elections are reported in Table 2.

TABLE 1: ECOLOGICAL REGRESSION AND EXTREME CASE ANALYSIS:

POLARIZATION IN STATEWIDE GEORGIA ELECTONS

PRECINCTS WITHIN BOUNDARIES OF CONGRESSIONAL DISTRICT 11

ELECTION	% BLACK VOTERS VOTING FOR BLACK CANDS	% WHITE VOTERS VOTING FOR BLACK CANDS	SQ. CORR. COEFF R^2	VOTE FOR BLACK CANDS IN 90%+ BLACK PRECS	VOTE FOR BLACK CANDS IN 90%+ WHITE PRECS
1984 DEM PRIM PRES. PREF. BLACK CAND: JACKSON WHITE CANDS: MONDALE HART 6 OTHERS	65%	0%	.76*	66%	7%
1988 DEM PRIM PRES. PREF. BLACK CAND: JACKSON WHITE CANDS: DUKAKIS GORE 4 OTHERS	95%	0%	.86*	94%	12%
1990 DEM PRIM GOVERNOR BLACK CAND: YOUNG WHITE CANDS: MILLER BARNES MADDOX MCDONALD	89%	2%	.84*	87%	12%
1990 DEM RUNOFF GOVERNOR YOUNG MILLER	93%	12%	.80*	91%	21%

TABLE 1:CONT'D: ECOLOGICAL REGRESSION AND EXTREME CASE ANALYSIS:

POLARIZATION IN STATEWIDE GEORGIA ELECTIONS

PRECINCTS WITHIN BOUNDARIES OF CONGRESSIONAL DISTRICT 11

ELECTION	% BLACK VOTERS VOTING FOR BLACK CANDS	% WHITE VOTERS VOTING FOR BLACK CANDS	SQ. CORR. COEFF R^2	VOTE FOR BLACK CANDS IN 90%+ BLACK PRECS	VOTE FOR BLACK CANDS IN 90%+ WHITE PRECS
1992 DEM PRIM LABOR COMM BLACK CANDS: JOHNSON SCOTT WHITE CAND: POYTHRESS	96%	45%	.77	93%	47%
1992 DEM RUNOFF LABOR COMM SCOTT POYTHRESS	92%	26%	.79*	89%	25%

THE ANALYSIS INCLUDES ONLY PRECINCTS ENTIRELY WITHIN EACH DISTRICT. VIRTUALLY IDENTICAL RESULTS ARE OBTAINED WHEN SPLIT PRECINCTS ARE INCLUDED AND PROPORTIONALLY ADJUSTED FOR TURNOUT. THERE ARE ABOUT 20 SPLIT PRECINCTS OF SOME 250 IN DISTRICT 11.

* RESULTS STATISTICALLY SIGNIFICANT AT .0001 LEVEL.

exception to this pattern is the 1992 Democratic primary for Labor Commissioner. In that election a small majority of white voters voted for the two black candidates. This means that at least 79 percent of white voters bloc voted for white candidates. Again, the only exception to this pattern is the 1992 Democratic primary for Labor Commissioner. In that election a small majority of white voters voted for the two black candidates. In the runoff election for Labor Commissioner, however, Table 2 discloses that polarization greatly increased, as only 21 percent of white voters voted for the black incumbent candidate, whereas 77 percent of black voters voted for the black candidate.

Finally, the black versus white Democratic primary and runoff elections for Congress in districts 11 and 2 are also polarized along racial lines. According to results reported in Table 3, the black electorate is cohesive in all four elections, as 85 percent or more of black voters supported black candidates. The results also show white bloc voting against black candidates. In 3 of 4 elections white support for black candidates was 26 percent or less. This means that 74 percent or more of white voters in these elections voted for white candidates. The only exception to the pattern of white bloc voting occurred in the District 11 primary, where 4 black candidates competed against one white candidate. In the District 11 runoff election, however, polarization increased substantially, as the black candidate garnered only 23 percent of the white vote, compared to 97 percent of the black vote.

Candidate-by-candidate analysis of the District 11 primary, reported in Table 4, shows that black candidate McKinney, one of four black candidates competing in that election, garnered 20 percent support from white voters. This placed her second among white voters to white candidate DeLoach, who garnered 45 percent

TABLE 3: ECOLOGICAL REGRESSION AND EXTREME CASE ANALYSIS: POLARIZATION IN CONGRESSIONAL ELECTIONS

1992 DEMOCRATIC PRIMARY & RUNOFF CONGRESSIONAL ELECTIONS GEORGIA CONGRESSIONAL DISTRICT 11 RESULTS BASED ON VOTER REGISTRATION DATA

ELECTION	% BLACK VOTERS VOTING FOR BLACK CANDS	% WHITE VOTERS VOTING FOR BLACK CANDS	SQ. CORR. COEFF R^2	VOTE FOR BLACK CANDS IN 90%+ BLACK PRECS	VOTE FOR BLACK CANDS IN 90%+ WHITE PRECS
DIST 11 PRIM. BLACK CANDS: MCKINNEY, WALKER THURMOND LOCKHART WHITE CAND: DELOACH	94%	55%	.27*	87%	63%
DIST 11 RUN. MCKINNEY DELOACH	97%	23%	.70*	89%	23%

TABLE 3 CONT'D: ECOLOGICAL AND EXTREME CASE ANALYSIS: POLARIZATION IN STATEWIDE GEORGIA ELECTIONS

1992 DEMOCRATIC PRIMARY & RUNOFF CONGRESSIONAL ELECTIONS GEORGIA CONGRESSIONAL DISTRICT 2 RESULTS BASED ON VOTER REGISTRATION DATA

ELECTION	% BLACK VOTERS VOTING FOR BLACK CANDS	% WHITE VOTERS VOTING FOR BLACK CANDS	SQ. CORR. COEFF R^2	VOTE FOR BLACK CANDS IN 90%+ BLACK PRECS	VOTE FOR BLACK CANDS IN 90%+ WHITE PRECS
DIST 2 PRIM. BLACK CANDS: BISHOP CUMMINGS EDWARDS KAIGLER WHITE CANDS: HATCHER WHIGHAM	88%	26%	.51*	81%	35%
DIST 2 RUN BISHOP HATCHER	85%	18%	.48*	75%	29%

THE ANALYSIS INCLUDES ONLY PRECINCTS ENTIRELY WITHIN EACH DISTRICT. VIRTUALLY IDENTICAL RESULTS ARE OBTAINED WHEN SPLIT PRECINCTS ARE INCLUDED AND PROPORTIONALLY ADJUSTED FOR TURNOUT. THERE ARE ABOUT 20 SPLIT PRECINCTS OF SOME 250 IN DISTRICT 11 AND ABOUT 30 SPLIT PRECINCTS OF SOME 270 IN DISTRICT 2.

*RESULTS STATISTICALLY SIGNIFICANT AT .0001 LEVEL.

TABLE 4: ECOLOGICAL REGRESSION ESTIMATES VOTES FOR INDIVIDUAL CANDIDATES		
1992 DEMOCRATIC CONGRESSIONAL PRIMARY DISTRICT 11		
CANDIDATE	% BLACK VOTERS VOTING FOR CANDIDATE	% WHITE VOTERS VOTING FOR CANDIDATE
MCKINNEY (B)	42%	20%
WALKER (B)	34%	11%
THURMOND (B)	14%	17%
LOCKHART (B)	4%	7%
DELOACH (W)	6%	45%

THE ANALYSIS INCLUDES ONLY PRECINCTS ENTIRELY WITHIN DISTRICT 11. VIRTUALLY IDENTICAL RESULTS ARE OBTAINED WHEN SPLIT PRECINCTS ARE INCLUDED AND PROPORTIONALLY ADJUSTED FOR TURNOUT. THERE ARE ABOUT 20 SPLIT PRECINCTS OF SOME 250 IN DISTRICT 11.

TABLE 10: ECOLOGICAL REGRESSION AND EXTREME CASE ANALYSIS; POLARIZATION IN CONGRESSIONAL ELECTIONS					
1992 DEMOCRATIC PRIMARY & RUNOFF CONGRESSIONAL ELECTIONS GEORGIA CONGRESSIONAL DISTRICT 11 RESULTS BASED ON VOTING AGE POPULATION DATA					
ELECTION	% BLACK VOTERS VOTING FOR BLACK CANDS	% WHITE VOTERS VOTING FOR BLACK CANDS	SQ. CORR. COEFF R^2	VOTE FOR BLACK CANDS IN 90%+ BLACK PRECS	VOTE FOR BLACK CANDS IN 90%+ WHITE PRECS
DIST 11 PRIM. BLACK CANDS: MCKINNEY, WALKER THURMOND LOCKHART WHITE CAND: DELOACH	94%	54%	.23*	85%	63%
DIST 11 RUN. MCKINNEY DELOACH	96%	22%	.64*	86%	24%

TABLE 10 CONT'D: ECOLOGICAL REGRESSION AND EXTREME CASE ANALYSIS; CONGRESSIONAL ELECTIONS

1992 DEMOCRATIC PRIMARY & RUNOFF – CONGRESSIONAL ELECTIONS GEORGIA CONGRESSIONAL DISTRICT 2

ELECTION	% BLACK VOTERS VOTING FOR BLACK CANDS	% WHITE VOTERS VOTING FOR BLACK CANDS	SQ. CORR. COEFF R^2	VOTE FOR BLACK CANDS IN 90%+ BLACK PRECS	VOTE FOR BLACK CANDS IN 90%+ WHITE PRECS
DIST 2 PRIM. BLACK CANDS: BISHOP CUMMINGS EDWARDS KAIGLER WHITE CANDS: HATCHER WHIGHAM	38%	27%	.44*	81%	35%
DIST 2 RUN. BISHOP HATCHER	84%	20%	.41*	76%	33%

THE ANALYSIS INCLUDES ONLY PRECINCTS ENTIRELY WITHIN EACH DISTRICT. VOTING AGE POPULATION DATA WAS NOT AVAILABLE FOR THE PRECINCTS OF RICHMOND COUNTY IN DISTRICT 11 AND THE PRECINCTS OF MACON COUNTY IN DISTRICT 2.

* RESULTS STATISTICALLY SIGNIFICANT AT .0001 LEVEL.

support from white voters. McKinney's white support increased from 20 percent in the primary to only 23 percent in the runoff, as white voters coalesced behind the white candidate. DeLoach increased his white support from 45 percent in the primary to 77 percent in the runoff election.

RESULTS II: SOCIOECONOMIC DIFFERENCES AND POLITICAL CONSEQUENCES

Examination of data from the 1990 *U.S. Census of Housing and Population* demonstrates clearly that white residents of the state of Georgia have a substantially higher socioeconomic status than black residents of the state of Georgia. Differences between whites and blacks are found for standard measures of income, occupation, and education.

Socioeconomic differences restrict the relative resources available to a politically cohesive minority group such as blacks in Georgia. Such resources include campaign finance and facilities; a recruitment base of well-educated candidates; and access to transportation and communication. Lower socioeconomic standing also constitutes a barrier to the turnout of voters as demonstrated by social science studies.[7] Ecological regression analysis of voter turnout indicates that black residents of Georgia have not been able to overcome this barrier. Participation measures generally focus on general elec-

[7]See, for example, Raymond E. Wolfinger and Steven J. Rosenstone, *Who Votes*? (New Haven: Yale University Press, 1980); Steven J. Rosenstone and John Mark Hansen, *Mobilization, Participation, and Democracy in America* (New York: Macmillan, 1993); Jan E. Leighley and Jonathan Nagler, "Individual and Systemic Influences on Turnout: Who Votes? 1984," *The Journal of Politics* 52 (1992).

tions in which all voters participate and on top-of-the-ticket contests. Ecological regression analysis of the 1988 presidential election indicates that 62 percent of white registrants voted, compared to 47 percent of black registrants. Similarly, ecological regression analysis of the 1992 presidential election indicates that 72 percent of white registrants voted, compared to 58 percent of black registrants. These differences in the turnout of registered whites and blacks, moreover, understate overall white/black turnout differences because the white voter registration rate is higher than the black voter registration rate. According to the 1990 Census, about 25 percent of Georgia's voting age population was black. But only about 22 percent of registered voters in 1988 and 1992 were black, according to state of Georgia registration statistics.

APPENDIX 1

RACIAL POLARIZATION IN GEORGIA

PRIMARY AND RUNOFF SEQUENCES, WITH BLACK CANDIDATES
SUMMARY OF FINDINGS, ECOLOGICAL REGRESSION

ECOLOGICAL REG. RESULTS

COUNTY & ELECTION	% BLACK VOTERS VOTING FOR BLACK CAND(S).	% WHITE VOTERS VOTING FOR BLACK CAND(S).	SQUARED CORRELATION COEFFICIENT (R^2)
BALDWIN COUNTY			
1990 PRIMARY			
GOVERNOR	98	8	.95
1990 RUNOFF			
GOVERNOR	100	17	.95
BIBB COUNTY			
1984 PRIMARY			
BD. OF ED.	73	6	.98
1984 RUNOFF			
BD. OF ED.	99	0	.93
1990 PRIMARY			
GOVERNOR	91	7	.98
1990 RUNOFF			
GOVERNOR	94	14	.97
DEKALB COUNTY			
1976 PRIMARY			
SENATE D. 43	85	28	.80
1976 RUNOFF			
SENATE D. 43	100	22	.83
1978 PRIMARY			
HOUSE D. 56	54	14	.80

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RACIAL POLARIZATION IN GEORGIA

PRIMARY AND RUNOFF SEQUENCES, WITH BLACK CANDIDATES
SUMMARY OF FINDINGS, ECOLOGICAL REGRESSION

ECOLOGICAL REG. RESULTS

COUNTY & ELECTION	% BLACK VOTERS VOTING FOR BLACK CAND(S).	% WHITE VOTERS VOTING FOR BLACK CAND(S).	SQUARED CORRELATION COEFFICIENT (R^2)
1982 PRIMARY			
HOUSE D. 56	41	14	.66
1984 PRIMARY			
CO COMM.	69	13	.74
SENATE D. 43	65	24	.59
APPEALS CT.	59	51	.11
DEM. PRESIDENT	60	1	.96
1984 RUNOFF			
CO COMM.	84	17	.78
SENATE D. 43	67	27	.65
1984 GENERAL			
SENATE D. 43	99	50	.96
DEKALB COUNTY			
1988 PRIMARY			
HOUSE D. 51	67	34	.32
DEM. PRESIDENT	95	14	.89
1988 RUNOFF			
HOUSE D. 51	80	17	.72

APPENDIX 1

RACIAL POLARIZATION IN GEORGIA

PRIMARY AND RUNOFF SEQUENCES, WITH BLACK CANDIDATES
SUMMARY OF FINDINGS, ECOLOGICAL REGRESSION

ECOLOGICAL REG. RESULTS

COUNTY & ELECTION	% BLACK VOTERS VOTING FOR BLACK CAND(S).	% WHITE VOTERS VOTING FOR BLACK CAND(S).	SQUARED CORRELATION COEFFICIENT (R^2)
GREENE COUNTY			
1982 PRIMARY			
HOUSE DIST. 106	61	0	.80
1982 RUNOFF			
HOUSE DIST. 106	70	0	.86
1986 PRIMARY			
HOUSE DIST. 106	89	0	.85
NEWTON COUNTY			
1990 PRIMARY			
GOVERNOR	100	0	.98
1990 RUNOFF			
GOVERNOR	100	12	.95

APPENDIX 1

RACIAL POLARIZATION IN GEORGIA

PRIMARY AND RUNOFF SEQUENCES, WITH BLACK CANDIDATES
SUMMARY OF FINDINGS, ECOLOGICAL REGRESSION

ECOLOGICAL REG. RESULTS

COUNTY & ELECTION	% BLACK VOTERS VOTING FOR BLACK CAND(S).	% WHITE VOTERS VOTING FOR BLACK CAND(S).	SQUARED CORRELATION COEFFICIENT (R^2)
PUTNAM COUNTY			
1976 PRIMARY			
SCHOOL BOARD	43	20	.34
1976 RUNOFF			
SCHOOL BOARD	54	36	.39
1982 PRIMARY			
HOUSE D. 106	52	0	.99
1982 RUNOFF			
HOUSE D. 106	77	1	.99
1990 PRIMARY			
GOVERNOR	99	3	.99
1990 RUNOFF			
GOVERNOR	97	9	.99
TWIGGS COUNTY			
1973 PRIMARY			
ORDINARY	83	0	.88
1973 RUNOFF			
ORDINARY	93	0	.92
1990 PRIMARY			
GOVERNOR	81	0	.95
1990 RUNOFF			
GOVERNOR	93	0	.94

APPENDIX 1

RACIAL POLARIZATION IN GEORGIA

PRIMARY AND RUNOFF SEQUENCES, WITH BLACK CANDIDATES
SUMMARY OF FINDINGS, ECOLOGICAL REGRESSION

ECOLOGICAL REG. RESULTS

COUNTY & ELECTION	% BLACK VOTERS VOTING FOR BLACK CAND(S).	% WHITE VOTERS VOTING FOR BLACK CAND(S).	SQUARED CORRELATION COEFFICIENT (R^2)
WARREN COUNTY			
1984 PRIMARY			
SCHOOL SUPERINTENDANT	82	0	.99
1988 PRIMARY			
SCHOOL SUPERINTENDANT	78	8	.91
WILKINSON COUNTY			
1976 PRIMARY			
BD. OF ED.	49	35	.02
1976 RUNOFF			
BD. OF ED.	80	5	.82
1982 PRIMARY			
CO COMM.	100	1	.86
1982 RUNOFF			
CO COMM.	100	7	.89
1990 PRIMARY			
GOVERNOR	80	0	.94
1990 RUNOFF			
GOVERNOR	99	4	.96

F. TESTIMONY OF RONALD E. WEBER

[Excerpt from Trial Testimony, 5 T. Tr. p. 314, line 1-p. 326, line 19]

Q Is it true, Dr. Weber, that in attempting to evaluate racial voting patterns and the opportunity for the electoral success of black preferred candidates in congressional democratic primary elections, that the most probative elections to analyze are other congressional democratic primary elections?

A If you have some. I guess—and I would add to that if you're—if you're trying to evaluate the effect—the potential effectiveness of African-American Districts, you might want to start with elections in which an African-American has competed against a non African-American. You start with that. I won't say you'll end with that. You at least want to start with that.

Q Okay. And so, you might also want to look at other democratic primary elections for state legislative or executive offices because that would involve similar dynamics? Is that correct?

A Yes, and that's why I've looked at Andrew Young versus Zell Miller. I've looked at Scott and Johnson in that primary. I looked at the runoff there. Yes.

Q And would you consider Democratic presidential preference primary elections to be somewhat less probative but probably still relevant?

A I'd say they're relevant. Yes.

Q But somewhat less so than the other elections that I mentioned?

A If you're going to have to weight things—in other words, if you're going to start assigning weights to the

average, you might discount the presidential primary a little bit. Yes.

Q Well, don't you assign weights to elections when you're deciding on elections to analyze in different cases that you've testified in?

A Yes, but I think under the—under the—under the —sort of the guidelines that your expert and I am operating under, I think we would both agree that you wouldn't exclude that election. You would analyze it.

Q I'm not asking whether you would exclude it.

A Yeah. Yeah. Yeah. Yeah.

Q I'm asking about the weight being assigned to it.

A Yeah. What I'm saying is that if you pick a period of which you're going to analyze the elections, you would choose all the elections.

Now, you might, as Dr. Lichtman does, you might say, "Well, I'm not going to analyze a certain election because the minority candidate didn't get 15% of the vote." We didn't have that here. These are all elections.

Q Right now we're talking about types of elections right now.

A Yes, sir. Yes, ma'am. Excuse me. I'm sorry.

Q I wore purple for that reason. The next category of elections, if you had some non partisan elections for legislative or executive offices, would you consider them less helpful or less probative of voting patterns in congressional primary elections?

A You'd need to note them, and you'd need to know whether or not those elections were being conducted at the same time as the primary. And for example, the

three judicial races that we included in our report are elections held at the same time as the primary.

So, the same elective that's voting in the Democratic primary is voting in those, but you also have interestingly the Republicans voting as well. So, you're getting a very conservative test that seems to me a polarization and performance of a district.

Q Well, isn't it true, Dr. Weber, that you've testified to other federal courts that in fact it's inappropriate to take judicial elections into consideration when you're looking at congressional election voting patterns?

A It depends upon the state.

Q Well, I asked you isn't that true that you've testified to that in other cases?

A Yes, but it depends on the context in each state whether you do that. In Texas, I did it. Everybody did it in Texas. The indicator that the—that the state used as one of its partisan indicators was based only on judicial elections.

Q And in Texas, judicial elections are partisan; isn't that correct?

A That's correct. Yes.

Q And—but why did you say in Louisiana, Dr. Weber, that judicial elections are totally irrelevant?

A I don't believe I said they were totally irrelevant in a congressional context. I said I didn't do that. I did not do the analysis. Or I had—the analysis was there. I did not report the analysis. Basically, most judicial elections in Louisiana are not hold at the same time as congressional elections. They're for their—it's a different electorate.

Q Isn't it true that all elections in Louisiana are held at non partisan primaries, at the same time?

A Yes, but they're not held at the same time. Most judges in Louisiana are elected in special elections held at times other than the regular elections. You have hardly any judges elected at the regular elections.

Q In Louisiana, didn't you testify, Dr. Weber, that you didn't consider judicial elections because voters have a different calculus when they go to voting for a judge than they do when voting in a congressional election?

A That's part of it. Yes.

Q And would that be any different in Georgia?

A Would they have a different cal - - -

Q Do you have any reason to believe - - -

A - - - different calculus?

Q Do you have any evidence to show that calculus difference that you testified to that somehow voters in Georgia have the same calculus in voting for judges as they do in voting in partisan congressional elections?

A Well—first of all, it's not a partisan election you're making a comparison to. It's a - - -

Q A partisan primary.

A It's a partisan primary, which only Democrats - - -

Q Right.

A People who think of themselves as Democrats run.

Q Which is a different electorate than the judicial; correct?

A Yes. But I've already admitted it. So you've got a larger electorate participating in the judicial election.

Now the question is: Are the campaigns conducted differently? Yes, they are. I'll admit to that.

Q In other words, Dr. Weber, you applied a standard pending on the particular circumstances of the case?

A No, I do not. I believe that the judicial elections in Georgia provide a reasonably good indication of how voters within the Eleventh Congressional District react to African-American versus non-African-American candidates.

Q In congressional elections?

A Not for congressional elections. You're talking about—we're talking about the district- - -

Q Well , isn't that what you're trying to analyze?

A We're talking about hub of voters. No. We're talking about hub of voters.

Q So you're not trying to analyze the opportunity of black voters to elect a member of Congress in this district?

A You use, you use the information for that purpose, yes.

Q Isn't it true, Dr. Weber, that in Louisiana, the judicial elections that were at issue generally did not involve incumbent judges? That they involved white?

A Some did. Some did.

Q And that there were many, many elections that involved black versus white challenges for an open judicial seat?

A Primarily, most of the elections in Louisiana are about open seats; yes.

Q Okay. And isn't it also true that in a Louisiana judicial election which you say are not relevant to analyzing congressional elections there, you showed fairly high levels of racial polarization if you did analyze the elections?

A Say that again to me. I'm sorry.

Q Isn't it true that in those Louisiana judicial elections which the expert witness on the other side of the case analyzed and you said were inappropriate, you had fairly high levels of racial polarization?

A We had varying levels of racial polarization depending on the part of the state.

Q Isn't it true that in this case, Dr. Weber, the judicial elections you analyzed all involved black incumbent judges who had been appointed to their position?

A I believe they've all been appointed; yes.

Q And they were incumbents when they ran for election?

A They were able to put—if they did pictures in their ads, they could put on their robes and say "re-elect the judge." Yes.

Q And they were all—each of those judges in fact has the active support of the Governor of Georgia at the time in their campaign?

A I believe they did; yes.

Q And isn't it also true that the results of those judicial elections showed substantially higher white crossover vote than the other partisan primary election that you analyzed in this case?

A Substantially higher white crossover.

Q Higher. I will take the substantial out of it.

A Not always.

Q Can you give me an example where it didn't?

A The primary in 1992 in District Eleven, a majority of non African-Americans supported the African-American candidates.

Q Well, let me ask you about that, Dr. Weber. You're talking about the initial primary.

HONORABLE JUDGE BOWEN: Ms. Murphy, I want to compliment you on the depth of your exploration, but really isn't the point made when you show us that there is indeed a distinction between a judicial election and a congressional election.

MS. MURPHY: Well, Your Honor, I'm actually moving on to a separate point now, if I may.

HONORABLE JUDGE BOWEN: Okay. Well, let that same reasoning apply analogously to the next point.

MS. MURPHY: I'll do my best.

Q (Mr. Murphy) You just mentioned the 1992 democratic primary for Congress.

A Yes, that's correct.

Q Weren't there four African-American candidates in that election?

A Yes, and one non African-American; yes.

Q And in fact in reporting your Plaintiffs' "84 F", you combined the vote totals for those four African-American candidates to look at white crossover vote; did you not?

A Yes, that's appropriate.

Q And isn't it true, Dr. Weber, that you've opined before that in fact it is improper, actually I can just read you the—read you the testimony I'm talking about.

"In order to determine who is the candidate of choice of black voters one needs to see which candidate obtained the largest share of the black votes. There is no other way to determine a group's candidate of choice and determine which candidate received more of their votes than anyone else. . ."

And then you went on to say that you agree with Dr. Lichtman's approach in that particular case, which would put all the black candidates together for purposes —you disagreed, I'm sorry.

A Yes. Disagreed, yes.

Q With Dr. Lichtman's approach?

A Yes. I think what you're doing is you're mixing apples and oranges here. In the original table in Attachment E, I have done a separate estimation.

Q Correct.

A For the purposes of summarization, I have summarized that. The raw data is in the report. The reader can easily see that and who got the first—who ran first, who ran second; all those kinds of things.

The only criticism I made of Dr. Lichtman on that is when, when you run the regression of all the candidates combined, you can't make those inferences. I mean, that's a relative minor criticism, it seems to me.

Q Well, but you're saying here—you're saying the crossover vote for the AA candidate is 55.3%. But in fact, no AA candidate in that election received a majority of the white vote; isn't that true?

A I believe that's true; yes. Yeah.

Q And I believe you testified in that same case that it was not appropriate to lump all these black candidates together in attempting to determine the candidate of choice of each racial group; isn't that true?

A And that's why I put candidates of choice, not candidate of choice.

Q So what you're saying is that when you want to look at whether or not there's racially polarized voting in a Section 2 context, you can't put the black candidates together, but in this context is okay?

A No, I'm not saying that. All I'm saying is that it is simply a function of how you summarize.

Q Exactly.

A It seemed to me it was just a simple function to summarize this way than to present all of- - -

Q So you're willing to lump all the candidates together for this purpose?

A Just for the purposes of this simple summarization.

Q Well, Dr. Weber, I'd like for you to look at Plaintiffs' Exhibit "84 F". Do you still have it in front of you?

A No, I don't.

HONORABLE JUDGE BOWEN: I think I have it.

Q I'd like for you to calculate for me, Dr. Weber the average crossover vote if we don't include the three judicial elections and we don't include the two elections in which you in fact lumped the black candidates together to determine the white crossover vote?

Do you have a calculator?

A No. I don't have a calculator to do it, because I've already done for you.

Q Oh, you have?

A Yes. I knew you were going to ask this sort of thing. All I've got to do is fine - - -

Q You should have just testified on direct. We could have saved a lot of time.

A I'm trying to find it. It's underneath my supplemental report. Give me just a moment to find it.

[Pause.]

A All right. Okay, here it is. Okay. Now, what's your question, please?

Q I'd like you to calculate the average crossover vote when you exclude the three judicial elections and the two elections where you in fact lump the black candidates together?

A Oh, I would have calculate that, because we'd now be down to one - - -

Q Five.

A - - - two, three, four, five. Okay.

Q Well, first why don't you tell me what it is when you exclude the three judicial elections? I assume that's what you calculated.

A Yes. Yes. What I did is you take the judicial elections out that crossover drops to 26.6%.

Q And what about if you take these two elections where you lump the black candidates together?

A I don't know why we're doing this, but I'm going to play along with you.

HONORABLE JUDGE BOWEN: Well, how long will it take?

A I've got to add five numbers together and divide by five.

HONORABLE JUDGE BOWEN: All right.

[Pause.]

A 17%.

Q Thank you. You mentioned a moment ago your supplemental report. In fact, your report has had three incarnations in this case; hasn't it? Your original report, your revised report, and now we have a small supplemental report that we received at the beginning of the trial last week. Is that correct?

A Yes. I made some minor revisions before the deposition and added this.

Q Do you consider those revisions minor, Dr. Weber?

A The revisions that I gave you at the deposition?

Q Yes.

A Yes, I think they were minor.

Q Well, isn't it true that you in fact did a substantially different analysis of the elections in the Eleventh Congressional District and adjusted for split precincts in your revised report?

A Yes. Yes.

Q But you hadn't done that in your original report?

A No, because I did not—when I got Dr. Lichtman's report and saw that we were getting substantially different estimates of participation, I explored why there were those differences. And I came to the conclusion

that split — treatment of split precincts made a difference in participation estimates.

Q And you determined to do an adjustment for those split precincts after reading Dr. Lichtman's report; is that correct?

A Yes.

Q And you determined that adjusting for split precincts in fact gave you more accurate results?

A For participation; not necessarily for polarization.

Q But the results you rely on, at least in comparing your summary exhibits are adjusted for split precincts; isn't that correct?

A I believe they are; yes.

Q So you consider those more reliable results in your report?

A Yes.

G. REVISED REPORT OF RONALD E. WEBER

[Plaintiffs' Exh. 82, at cover-4, 22, ¶ 39-32, ¶ 49 and Attach. E]

WILDER CRANE PROFESSOR OF GOVERNMENT
UNIVERSITY OF WISCONSIN—MILWAUKEE

June 16, 1994

INTRODUCTION

A. Background and Experience

1. My name is Ronald E. Weber and I am a resident of the State of Wisconsin.

2. I am currently the Wilder Crane Professor of Government and Chairman of the Department of Political Science at the University of Wisconsin, Milwaukee, Wisconsin; President of Campaign and Opinion Research Analysts, Inc.; and former co-editor of *The Journal of Politics*. I received my B.A. in Political Science and History from Macalester College, St. Paul, MN, in 1964 and a Ph.D. in Political Science from Syracuse University in 1969, with specialties in American state politics, voting behavior, and quantitative analyses of political data. A copy of my curriculum vitae is attached as Attachment A.

3. I am the author of numerous scholarly works on state political behavior, including several works on state legislative elections and voting behavior at the individual and aggregate levels of analysis. These works have appeared in such academic journals as the *American Political Science Review, The Journal of Politics, Midwest Journal of Political Science, Public Opinion Quarterly,* and *Legislative Studies Quarterly.*

4. I have been retained as a consultant and expert witness in a number of voting rights cases and have been qualified as an expert by the U.S. District Courts

in the Middle District (Northern and Southern Divisions) of Alabama, the Northern District (Tallahassee Division) and Middle District of Florida, the Eastern, Middle, and Western Districts of Louisiana, the District of Maryland, the District (Western Division) of Massachusetts, the Eastern District (Southern Division) of Michigan, the Northern District (Eastern and Western Divisions) of Mississippi, and the Northern District of Texas. I have given testimony by deposition in a number of cases, including a deposition for the plaintiffs in the Congressional redistricting case of *Shaw v. Reno*, n/k/a *Shaw v. Hunt* (Eastern District of North Carolina, Raleigh Division). A listing of the cases in which I have testified in Federal court or I was deposed under oath is attached as Attachment B. I also have extensive experience developing redistricting plans for local and state government clients and assisting them with preclearance of those plans under Section 5 of the U.S. Voting Rights Act of 1965, as amended in 1982.

5. I have been retained by plaintiffs in this case and am being compensated at the rate of $100 per hour plus out-of-pocket expenses.

B. Purpose of the Analysis

6. I have addressed the following questions in analyzing whether the 1992 Congressional redistricting in Georgia for the Eleventh Congressional district results in a violation of the Fourteenth and Fifteenth Amendments of the U.S. Constitution in accord with factors set forth by the U.S. Supreme Court in Shaw v. Reno:

(1) whether or not race was the overriding factor used by the State of Georgia to draw the boundaries of the Eleventh Congressional district;

(2) whether or not the Eleventh Congressional district is compact;

(3) whether or not the Eleventh Congressional district violates other traditional districting criteria;

(4) whether or not voting patterns in recent Democratic primary, runoff, and general elections held within the boundaries of the Eleventh Congressional district reveal patterns of participation differences between African-Americans and non-African Americans and racially polarized voting, and, if so, to what extent;

(5) whether or not the Eleventh Congressional District is overly safe from the standpoint of assuring the election of a candidate of choice of African-American voters;

(6) whether or not more narrowly tailored plans were or can be created for an Eleventh Congressional district that can achieve the same electoral results as the state plan that are less violative of traditional districting criteria; and

(7) whether or not the state plan for the Eleventh Congressional district results in a maximization of African-American representation in the Georgia congressional delegation.

7. In attempting to assist the court in addressing these questions, I have undertaken an analysis of data reported in the State of Georgia's 1991-92 preclearance submissions to the U.S. Department of Justice, as well as other demographic and electoral data. The results of my analysis to date will be presented in this report in the following form: in section I, I will describe the analyses conducted to answer the first three questions and set forth my conclusions on those questions; in Section

II, I will describe the electoral database employed, my analytical methodology for the participation and polarization analyses, and set forth my conclusions based upon the application of this methodology to this database; and in section III, I will describe the analyses conducted to answer the last two questions and set forth my conclusions on those questions. Tables and exhibits relevant to my analyses will be included as attachments to this report.

2. Racial Polarization in Voting

39. I also analyzed the eleven contested general elections for U.S. Congress in 1992 in Georgia to determine the patterns of racially polarized voting within each district (see Attachment E). In the seven district elections for which valid African-American voter behavior estimates can be obtained, the African-American voters display cohesive support for the Democratic nominee in each district. In the Eleventh Congressional district, the African-American voters give an estimated 96 percent of their support to the Democratic party nominee, Cynthia McKinney. In the other two majority African-American districts, the African-American voters give between 93 and 100 percent of their support to African-American Democratic nominees in the general election. In the eight non-African-American majority districts, the non-African-American voters give a majority of their support to Republican nominees in six of the eight districts. In only the Seventh and Ninth districts do non-African-Americans give a majority of their support to Democratic nominees. Non-African-American voters in the three African-American majority districts act similarly to non-African-American voters in other districts, giving a majority of their support to Republican

nominees. The non-African-American cross-over vote in the African-American majority districts ranges from about 23 percent in the Second district to 44 percent in the Fifth district. The estimated figure for the Eleventh Congressional district is 28.6 percent.

40. I also analyzed the Democratic primary and runoff primary results for Congress in 1992 in the precincts contained in the three African-American majority Congressional districts of Georgia to determine the patterns of racial polarization in voting in those elections. In the Democratic primary in the Eleventh Congressional district, Cynthia McKinney was the plurality choice of African-American voters with an estimated 40-41 percent level of support, while George Deloach was the plurality choice of non-African-American voters with an estimated level of support of 44-45 percent. The combined vote for the four African-American candidates was an estimated 55-56 percent of the vote cast by non-African-Americans, indicating a low level of racial polarization in voting in that election. In the Democratic runoff primary, African-Americans were cohesive in their support of Cynthia McKinney, giving her an estimated 90-96 percent level of support. Her cross-over support from non-African-Americans was estimated at 23-24 percent. With the combination of African-American and non-African-American support, she captured over 55 percent of the vote. Therefore, no legally or politically consequential racial polarization in voting occurred in that election.

41. In the Second Congressional district, African-Americans gave plurality support to Sanford Bishop at an estimated level of 31.7 percent in the Democratic primary. Charles Hatcher, the incumbent Congressman, was the choice of non-African-Americans, at an estimated level of support of 66.4 percent. In the runoff

primary, Bishop was the choice of African-Americans receiving an estimated level of support of 70.5 percent. His cross-over support from non-African-Americans was an estimated 22.3 percent. Bishop was the victor in the runoff primary, thus resulting in no legally or politically consequential racial polarized voting. In the Democratic primary for the Fifth Congressional district, John Lewis, the incumbent, was the choice of both African-American and non-African-American voters.

42. I also analyzed the Democratic primary runoff results in 1990 for Governor and the Democratic primary results in 1988 for President in the precincts contained in the three African-American majority Congressional districts of Georgia to determine the patterns of racial polarization in voting in those elections. African-American voters give cohesive support to Andrew Young, the former Congressman and Mayor of Atlanta, in the Democratic runoff for Governor in 1990 in the Eleventh, Second, and Fifth Congressional districts, with the African-American crossover vote running as high as an estimated 18.3 percent in the Fifth Congressional district. Cross-over voting from non-African-Americans in the three Congressional districts ranges from a high of about 35 percent in the Fifth district to lows of eight to eleven percent in the Second and Eleventh districts respectively. While the 1990 Democratic runoff election results indicate some racial polarization in voting, the cross-over voting by each group negates legally or politically consequential racial polarized voting in each district.

43. African-American voters also gave cohesive support to Jesse Jackson in the Democratic Presidential Preference primary in 1988 with the African-American crossover vote running about an estimated six to seven percent in the three African-American majority

Congressional districts. Cross-over voting from non-African-Americans in the three Congressional districts was minimal, with the election results indicating some racial polarization in voting. The net effect of participation patterns of the two groups in the election, with the African-American voters participating at a higher rate than non-African-Americans, advantaged the African-American voters thus making the presence of racial polarization in voting of no legal or political consequence.

44. I have also analyzed the patterns of racial polarization in voting in the 1992 Democratic primary and runoff elections for the state Commissioner of Labor within the precincts contained in the three African-American majority Congressional districts. In the Eleventh Congressional district, African-Americans were cohesive in support of African-American candidate Scott in the Democratic primary election. Non-African-Americans gave a slight majority of their support to Poythress the non-African-American candidate in the election. In the runoff primary, Scott received cohesive support from African-American voters while non-African-American cross-over support for Scott was estimated at about 27 percent. Although there is evidence of some racial polarization in voting in this contest, it is not legally or politically consequential because the candidate preferred by African-American voters wins within the boundaries of the Eleventh Congressional district. Neither African-Americans nor non-African-Americans display cohesive patterns in racial polarization in voting in the Democratic primary for state Commissioner of Labor in the Second Congressional district. Scott is preferred by a majority of African-American voters, while Poythress is supported by a plurality of non-African-Americans within the district. Voting is somewhat racially polarized in the

runoff election in the Second Congressional district, with Poythress winning the election within the precincts in the district. No legally or politically consequential racial polarization in voting occurs in the state Commissioner of Labor elections held within the precincts of the Fifth Congressional district in that in both the Democratic primary and runoff elections, Scott who is supported by African-American voters would have been the winner of the election.

45. I have also analyzed the patterns of racial polarization in voting in the three recent statewide non-partisan elections for the state judiciary within the precincts contained in the three African-American majority Congressional districts. These are three elections in which African-American candidates were elected to full terms on Georgia's Supreme Court or Court of Appeals. These non-partisan elections were held at the time of the primary elections in July. In the Eleventh Congressional district, African-Americans were cohesive in support of the African-American candidates in all three elections. Cross-over support by non-African-Americans played a major role in all three elections, with Robert Benham receiving a majority of non-African-American support in the 1990 election for Supreme Court justice. Non-African-American support for the other two African-American candidates was strong also with Leah Sears-Collins receiving an estimated 42.3 percent in the 1992 election and Clarence Cooper obtaining an estimated 44.5 percent support in the 1990 election. Racial polarization in voting does not occur in the 1990 Supreme Court election since both groups favor the same candidate. And the degree of racial polarization in voting is low in the other two judicial contests. Legally or politically consequential racial polarization in voting does not occur in that the candidates preferred by

African-American voters win all three elections held within the boundaries of the Eleventh Congressional district. A similar pattern in racial polarization in voting also occurs in the Second Congressional district. The 1990 Supreme Court election is not polarized, while the other two elections display low levels of polarization. Again the polarization in the two elections has no legal or political consequence as the candidates of choice of African-Americans prevail. No racial polarization in voting occurs in the three judicial elections held within the precincts of the Fifth Congressional district in that the two groups support the same candidate of choice.

46. I have also analyzed the pattern of voting in several 1986, 1990, and 1992 Democratic primary and runoff elections for State Senate and House seats held within the precincts contained in the Eleventh Congressional districts to determine the extent of racial polarization in voting in sub-regions of the district. In the most recent Democratic primary elections of 1992, voting was somewhat polarized for the 22nd State Senate District (Burke and Richmond Counties), the 66th State House District (DeKalb County), the 111th State House District (Green, Putnam, Taliaferro, and Wilkes Counties), and the 116th State House District (Richmond County). Voting was not polarized in the Democratic primary for State Senate District 55 (DeKalb County) because the candidate preferred by both groups was victorious. The racially polarized voting was legally or politically consequential in only one district election in 1992—the runoff primary in House District 66 (DeKalb County) where the candidate preferred by a majority of non-African-Americans won. (However, the African-American participation in that runoff primary was so low even cohesion behavior by those African-Americans voting was insufficient to elect a candidate of choice.) A lack of African-American cohesion in the 111th House District resulted in the defeat of the candidate preferred by African-American voters in that year.

47. My analyses of the two elections from 1990 indicate a pattern of some racial polarization in voting in both elections. The candidate of choice of African-Americans was elected in State House District 56 (DeKalb County) despite racial polarization in voting. Thus, the racial polarization in voting was legally or politically consequential only in State Senate District 22 (Richmond County). However, that State Senate District was not majority African-American in total or voting age population at that time and the patterns of participation and voting by the two groups were insufficient to produce a win for the candidate of choice of African-American voters. The analyses of the three State House elections from 1986 indicate that voting was somewhat racially polarized in Districts 106 and 116 and not polarized in District 56. The pattern of racial polarization in voting was not legally or politically consequential in Districts 106 and 116 since the preferred candidate of African-Americans won both elections.

48. The analyses of racial polarization in voting in the different recent elections held within the boundaries of the Eleventh Congressional district indicate that some racial polarization in voting occurs, but for the most part the racial polarization in voting is not legally or politically consequential. Candidates of choice of African-American voters won all contests for the Congressional office in 1992, won the Democratic runoff for Governor in 1990, won the Democratic Presidential Preference primary in 1988, and won the Democratic runoff for state Commissioner of Labor in 1992, and won the three positions on the state judiciary in 1990 and 1992. In the selected elections for State Senate and State House

positions, candidates preferred by African-Americans lost only two times when the African-American group was cohesive in the election—Senate District 22 in 1990 and House District 66 in 1992. In the remaining eight other elections for State Senate or House positions, the level of racially polarized voting was not legally or politically consequential.

3. Reconstituted Election Return Analysis

49. Using actual precinct-level returns for the 1988, 1990, and 1992 elections analyzed above, it is possible to reconstitute the results of state elections into the boundaries of the Congressional districts adopted by Georgia in 1992. These reconstituted results for the 1990 Democratic runoff primary for Governor and the 1988 Democratic Presidential Preference primary indicate that the African-American preferred candidates Andrew Young (1990) and Jesse Jackson (1988) would have been the winners of those elections in the Eleventh Congressional district as well as the Second and Fifth Congressional districts if the elections were held only within the boundaries of the 1992 Congressional districts (see Attachment F). In addition, I have reconstituted the results of the 1990 and 1992 state judicial contests as well as the two 1992 state Commissioner of Labor elections to see how African-American preferred candidates fared within the precincts of the three Congressional districts. The results of the three state judicial contests reconstituted to the precincts of the three African-American majority Congressional districts indicate that all three African-American candidates win the three Congressional districts, with the winning percent being quite comfortable in the Eleventh Congressional district. In the reconstituted results for the state Commissioner of Labor

Democratic primary election, Scott wins a majority of the vote in the Democratic primary in the Eleventh and Fifth Congressional districts while winning a plurality of the vote in the Second Congressional district. In the runoff election, Scott is elected in the Eleventh and Fifth Congressional districts, while losing in the Second Congressional district. These analyses reveal that the candidates preferred by African-Americans often achieved very comfortable margins of victory in each of the contests held within the precincts in the Eleventh Congressional district. The patterns of group participation, African-American cohesion, and non-African-American cross-over voting all contributed to these margins of victory.

STATE OF GEORGIA

1992 Democratic Run-Off
11th Congressional District
(% Of REG)

Weighted Candidate	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
Deloach	.021 (9.3%)	.205 (77.1%)	-.440**	.19
McKinney (B) +	.204 (90.7%)	.061 (22.9%)	.496**	.25
	.225	.266		

Extreme Cases	*Candidate*	*Black Vote*	*Nonblack Vote*
	Deloach	.025 (12.0%)	.134 (76.6%)
	McKinney (B) +	.184 (88.0%)	.041 (23.4%)
		.209	.175

Un-Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Deloach	.023 (10.5%)	.233 (79.0%)	-.466**	.22
	McKinney (B) +	.196 (89.5%)	.062 (21.0%)	.455**	.21
		.219	.295		

(B) denotes black candidate

+ denotes winner

** Statistically significant at the .01 level

STATE OF GEORGIA

1992 Democratic Run-Off, 11th Congressional District
Adjusted for Split Precincts
(% Of REG)

Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Deloach	.009 (4.3%)	.247 (76.0%)	-.543**	.29
	McKinney (B) +	.199 (95.7%)	.078 (24.0%)	.419**	.18
		.208	.325		

Extreme Cases	*Candidate*	*Black Vote*	*Nonblack Vote*
	Deloach	.026 (12.1%)	.197 (76.7%)
	McKinney (B) +	.188 (87.9%)	.060 (23.3%)
		.214	.257

Un-Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Deloach	.022 (10.1%)	.250 (77.9%)	-.508**	.26
	McKinney (B) +	.195 (89.9%)	.071 (22.1%)	.426**	.18
		.217	.321		

(B) denotes black candidate

+ denotes winner

** Statistically significant at the .01 level

STATE OF GEORGIA

1992 11th Congressional District
1990 Democratic Run-Off for Governor
(% Of REG)

Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Miller	.049 (10.4%)	.294 (89.1%)	-.576**	.33
	Young (B) +	.420 (89.6%)	.036 (10.9%)	.737**	.54
		.469	.330		

Extreme Cases	*Candidate*	*Black Vote*	*Nonblack Vote*
	Miller	.054 (11.3%)	.287 (81.1%)
	Young (B) +	.426 (88.7%)	.067 (18.9%)
		.480	.354

Un-Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Miller	.098 (16.9%)	.307 (99.4%)	-.291**	.08
	Young (B) +	.483 (83.1%)	.002 (0.6%)	.483**	.23
		.581	.309		

(B) denotes black candidate

+ denotes winner

** Statistically significant at the .01 level

STATE OF GEORGIA

1992 11th Congressional District
1988 Democratic Presidential Preference Primary
(% Of REG)

Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	White				
	Democrats	.024 (5.9%)	.151 (105.6%)	-.779**	.61
	Jackson (B) +	.380 (94.1%)	-.008 (-5.6%)	.905**	.82
		.404	.330		

Extreme Cases	*Candidate*	*Black Vote*	*Nonblack Vote*
	White		
	Democrats	.025 (6.1%)	.148 (80.9%)
	Jackson (B) +	.386 (93.9%)	.035 (19.1%)
		.411	.183

Un-Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	White				
	Democrats	.026 (6.5%)	.157 (105.4%)	-.736**	.54
	Jackson (B) +	.373 (93.5%)	-.008 (-5.4%)	.873**	.76
		.399	.149		

(B) denotes black candidate

+ denotes winner

** Statistically significant at the .01 level

STATE OF GEORGIA

1992 Democratic Run-Off for Commissioner of Labor
11th Congressional District
(% Of REG)

Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Poythress	.018 (8.3%)	.223 (72.9%)	-.552**	.30
	Scott (B) +	.199 (91.7%)	.083 (27.1%)	.401**	.16
		.217	.306		

Extreme Cases	*Candidate*	*Black Vote*	*Nonblack Vote*
	Poythress	.023 (10.6%)	.182 (73.1%)
	Scott (B) +	.194 (89.4%)	.067 (26.9%)
		.217	.249

Un-Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Poythress	.019 (8.7%)	.235 (73.7%)	-.543**	.30
	Scott (B) +	.199 (91.3%)	.084 (26.3%)	.378**	.14
		.218	.319		

(B) denotes black candidate
+ denotes winner
** Statistically significant at the .01 level

STATE OF GEORGIA

1992 Non-Partisan Election for Supreme Court Justice
11th Congressional District
(% Of REG)

Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Boswell	.029 (12.4%)	.135 (57.7%)	-.492**	.24
	Sears-Collins (B) +	.205 (87.6%)	.099 (42.3%)	.344**	.12
		.234	.234		

Extreme Cases	*Candidate*	*Black Vote*	*Nonblack Vote*
	Boswell	.031 (15.3%)	.132 (55.5%)
	Sears-Collins (B) +	.171 (84.7%)	.106 (44.5%)
		.202	.238

Un-Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Boswell	.023 (11.8%)	.162 (55.9%)	-.296**	.09
	Sears-Collins (B) +	.172 (88.2%)	.128 (44.1%)	.089	.01
		.195	.290		

(B) denotes black candidate
+ denotes winner
** Statistically significant at the .01 level

STATE OF GEORGIA

1990 Non-Partisan Election for Supreme Court Justice
1992 11th Congressional District
(% Of REG)

Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Benham (B) +	.155 (74.5%)	.133 (59.4%)	.077**	.01
	Salter	.053 (25.5%)	.091 (40.6%)	-.247**	.06
		.208	.224		

Extreme Cases	*Candidate*	*Black Vote*	*Nonblack Vote*
	Benham (B) +	.130 (75.1%)	.124 (58.8%)
	Salter	.043 (24.9%)	.087 (41.2%)
		.173	.211

Un-Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Benham (B) +	.136 (75.6%)	.126 (58.3%)	.035	.00
	Salter	.044 (24.4%)	.090 (41.7%)	-.276**	.08
		.180	.216		

(B) denotes black candidate
+ denotes winner
** Statistically significant at the .01 level

STATE OF GEORGIA

1990 Non-Partisan Election for Court of Appeals
1992 11th Congressional District
(% Of REG)

Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Blackburn	.041 (18.9%)	.117 (55.5%)	-.501**	.25
	Cooper (B) +	.176 (81.1%)	.094 (44.5%)	.250**	.06
		.217	.211		

Extreme Cases	*Candidate*	*Black Vote*	*Nonblack Vote*
	Blackburn	.031 (18.1%)	.100 (52.6%)
	Cooper (B) +	.140 (81.9%)	.090 (47.4%)
		.171	.190

Un-Weighted	*Candidate*	*Black Vote*	*Nonblack Vote*	*Corr. Coef.*	R^2
	Blackburn	.039 (21.5%)	.116 (55.2%)	-.410**	.17
	Cooper (B) +	.142 (78.5%)	.094 (44.8%)	.159*	.03
		.181	.210		

(B) denotes black candidate
+ denotes winner
* Statistically significant at the .05 level
** Statistically significant at the .01 level

H. JOINT STATEMENT OF UNDISPUTED FACT

3. The 1990 Decennial Census reports that the State of Georgia's population is 6,478,216 persons of whom 1,746,565 (26.96%) are black persons. Abrams Exhibit 1.

4. The total voting age population of Georgia is 4,750,913, of which 3,490,414 (73.5%) are white and 1,168,142 (24.6%) are black. 1990 Census, Table 1, at p. 1. Abrams Exhibit 1.

61. The members of the Georgia House of Representatives are elected from 180 single-member districts. Of those districts 42 have a majority black total population and 138 have a majority white total population. Thirty of the 42 (71.4%) majority-black districts are represented by black members and 12 of the 42 (28.6%) are represented by white members. Of the 138 majority-white House districts, one (0.7%) is represented by a black member. Exhibits U.S. 57, Abrams 24.

62. Thirty of the thirty-one (96.8%) black members of the House are elected from majority-black districts. Exhibits U.S. 57, Abrams 24.

63. The members of the Georgia Senate are elected from 56 single-member districts. Of those districts 13 have a majority black total population and 43 have a majority white total population. Nine of the thirteen (69.2%) majority-black districts are represented by black members and four of the 13 (30.8%) are represented by white members. Of the 43 majority-white Senate districts, none are represented by a black member. Exhibits U.S. 57, Abrams 23.

64. One hundred percent of the black members of the Georgia Senate are elected from majority-black districts. Exhibits U.S. 57, Abrams 23.

VOTING HISTORY

76. In 1908, the Georgia General Assembly passed a proposed amendment to the Georgia Constitution to prescribe the qualifications for electors and provide for the registration of voters. The proposed amendment established requirements for eligibility to vote, including state and county residence requirements, payment of taxes due, and satisfaction of one of the following: honorable service in one of several specified wars, a descendent of the former, good character and understanding of the duties and obligations of citizenship under a republican form of government, ability to read and write any paragraph of the United States or Georgia Constitution (with a proviso for those unable to do so because of physical disability), or ownership of property of a specified character. In the published, written version of the June 24, 1908 message of Governor Hoke Smith to the Georgia General Assembly, the remarks concerning the aforesaid proposed amendment are reported under the heading "Disfranchisement Act." No such amendment is in force in Georgia.

77. The poll tax was a feature of Georgia electoral law in the years immediately prior to 1945, but it was not in 1945 and thereafter.

78. Between 1900 and 1944, the democratic primary was a part of the political process that existed in the state, and blacks were excluded therefrom. Exclusion from the democratic primary did not, however, exclude black persons from voting in any other elections, including general elections, non-partisan candidate elections, special elections, referenda, bond elections, republican primaries and the like.

79. The district court in *King v. Chapman*, 62 F. Supp. 639 (M.D. Ga. 1945), *aff'd*, 154 F.2d 460 (5th Cir.), *cert.*

denied, 327 U.S. 800 (1946), found unconstitutional the exclusion of black citizens from participation in the Democratic primary election in Muscogee County, Georgia, which exclusion had been pursuant to a Democratic party rule of state-wide applicability. Said rule has not been in force since 1946.

80. The district court in *King v. Chapman* found that "[t]he Democratic Party is the dominant and controlling political party in Georgia. No other party has held a statewide primary during the past 40 years. Since 1900 Democratic nominees for United States Senator, members of the House of Representatives, Governor and other Statehouse officers, nominated at primaries, have been elected in the ensuing general election." During the time referred to in the quotation, a candidate winning in the Democratic primary for the offices listed in the quotation usually went on to win in the general election, although there was no Democratic primary for many elections, such as general elections, special elections, non-partisan elections and various referenda.

81. Generally speaking, more blacks were registered and voted in the State of Georgia in the years after the *King v. Chapman* decision than before. The number of black voters has generally increased in the state over the years.

82. In 1949, following the abolition of the white Democratic primary in 1945 and the election of Herman Talmadge as Governor in November 1948, the Georgia General Assembly enacted a "Voters' Registration Act." The 1949 Voters' Registration Act, among other things, declared existing registration lists null and void (except for special elections held prior to the next general election), required the re-registration of voters, and required further that citizens vote at least once in every

two years to maintain voter eligibility. This Act was repealed by 1958.

83. Under the 1949 Voter's Registration Act, voters could qualify to register to vote by demonstrating an ability to read and write (this requirement could be satisfied if the applicant was unable to read solely because of physical disability), or by reason of good character and understanding of the duties and obligations of citizenship under a Republican form of government by answering 10 of 30 questions. These provisions are no longer in force in Georgia.

84. The Georgia General Assembly in 1950 enacted legislation, which, among other things, permitted voters who had registered under prior provisions of Georgia law, i.e., those registered prior to 1949, to remain eligible to vote under certain circumstances. These provisions are no longer in force in Georgia.

85. In 1958, the Georgia General Assembly passed a "Voters Registration Act" which readopted some of the provisions of the 1949 Voters Registration Act, and, among other things, required for those illiterate persons seeking to register that 20 of 30 questions be answered correctly. These provisions are no longer in force in Georgia.

86. For some years prior to April 28, 1962, the State of Georgia operated under a county unit system for determining the nominees in primary elections for United States Senator and state officers elected on a state-wide basis, including justices of the Georgia Supreme Court and judges of the Georgia Court of Appeals.

87. Under the county unit system these nominations were not determined on the basis of popular vote. Rather, prior to 1962, each county was assigned a cer-

tain number of "units" based on the number of representatives elected to the lower House of the Georgia legislature from the county, and a candidate for one of the offices listed in the previous request for admission won a county's unit votes by receiving a plurality of the popular votes cast in that county for that office.

88. The effect of the county unit system was generally to attribute certain representation and political influence to counties, in part regardless of their population, and some part of the consequence of that system was to give equal or proportionately greater representation on a per capita basis to the less populated, rural counties.

89. As late as 1962, Democratic Party rules in Georgia allowed the Democratic Executive Committee of each congressional district to decide whether to employ the county unit system or a popular election plan for the primary nomination of candidates for Congress. *Rules and Regulations of the State Democratic Executive Committee of Georgia* (Adopted April 18, 1962), at 20-21. An authentic copy of this document is Exhibit U.S. 53.

90. According to historian James C. Bonner, whose affidavit was filed on behalf of the plaintiff in *Sanders* v. *Gray*, 203 F. Supp. 158 (N.D. Ga. 1962), supporters of the county unit system characterized it as a barrier against the "bloc vote" and "race mixing," and as a bulwark for defense of "the Southern way of life." James C. Bonner, "Legislative Apportionment and County Unit Voting in Georgia Since 1777," *Georgia Historical Quarterly*, XLVII, 351-74, at 370 (December 1963).

91. According to historian Numan V. Bartley, support for the county unit system was correlated with support for racial discrimination. "Conservatives consistently supported the protection and promotion of the county

unit system in politics and white supremacy in the social order." Numan V. Bartley, *From Thurmond to Wallace: Political Tendencies in Georgia. 1948-1968*, 22 (Baltimore, Md., The Johns Hopkins University Press, 1970).

92. According to historian Numan V. Bartley, Congressman James C. Davis of the Fifth district was a well-known advocate of racial discrimination: "Davis possessed a reactionary voting record in the House of Representatives and was a fiery proponent of the virtues of white supremacy." Numan V. Bartley, *From Thurmond to Wallace: Political Tendencies in Georgia. 1948-1968*, 52 (Baltimore, Md., The Johns Hopkins University Press, 1970).

93. Historian Numan V. Bartley has described Charles Weltner's politics in the following terms: "Weltner espoused a generally progressive program that contrasted sharply with Davis' congressional record and campaign oratory." Numan V. Bartley, *From Thurmond to Wallace: Political Tendencies in Georgia. 1948-1968*, 52 (Baltimore, Md., The Johns Hopkins University Press, 1970).

94. In 1964, the state of Georgia was required by the U.S. Supreme Court to reapportion its congressional districts in accordance with the one person, one vote principle. *Wesberry v. Sanders*, 376 U.S. 1 (1964).

95. In April, 1962, a three-judge district court enjoined the State of Georgia's use of the county unit system, as it was then implemented. *Sanders v. Gray*, 203 F. Supp. at 171. On appeal, the Supreme Court struck down the county unit system in Georgia as violative of the one-person, one-vote rule. *Gray v. Sanders*, 372 U.S. at 376-81 (1963).

96. On June 24, 1964, the State of Georgia enacted a voting code which established, comprehensive voting procedures, mechanisms and requirements applicable uniformly throughout the state. The law required candidates for nomination or election to federal, state and county offices in Georgia to obtain a majority of the votes cast to win the nomination for public office. If no candidate receives a majority of the vote, the candidates with the two highest number of votes run again in a run-off primary or election. A designated post requirement for some types of offices was also adopted in the same legislation.

97. During the spring of 1964, Donald L. Hollowell, a black attorney in Atlanta, filed to run for a superior court judgeship in the September 1964 primary in Fulton County, a county in which superior court judges could win the primary nomination by a plurality of the vote. However, by virtue of the adoption of the majority vote law in June of 1964, the primary was held using a majority vote requirement instead of the previously required plurality.

98. The Voting Rights Act of 1965 had the effect of suspending the State of Georgia's use of the literacy test requirement for voter eligibility, although the provision still appeared in Article II, §I, Para. III of the Constitution of the State of Georgia of 1976. The provision was removed from Georgia's 1983 Constitution.

99. According to a 1968 Report of the U.S. Commission on Civil Rights, *Political Participation*, pp. 12-13 (May 1968), there were 1,124,415 whites registered in the State of Georgia as of December 1962, and there were 167,663 non-whites registered to vote in the Georgia at the time. As of August 31, 1967, there were 1,443,730 whites registered to vote in Georgia and

332,496 non-whites registered to vote. An authentic copy of the relevant pages of this publication is Exhibit U.S. 54.

100. By statute enacted in 1966, the State of Georgia restricted a person from assisting more than one illiterate voter during an election. This statute was held unconstitutional in *Morris v. Fortson*, 261 F. Supp. 538, 541 (N.D. Ga. 1966).

101. In 1968, Georgia passed a purge law pertaining to municipalities maintaining their own registration systems. The law required the municipal registrar at specified times to remove from the voter list electors who (1) had neither voted during the previous three years nor requested continuation of registration, (2) had been convicted of a crime constituting a disqualification from voting, (3) had been adjudicated insane, or (4) had died. In the same year, Georgia passed a law pertaining to municipalities maintaining their own registration systems, which required the establishment of a central office, and such other places as the municipality might designate, at which voter registration could be conducted.

102. Courts have found racial bloc voting in Georgia in certain elections in Bleckley County, *Hall v. Holder*, 955 F.2d 1563 (11th Cir. 1992), *cert. granted;* Burke County, *Lodge v. Buxton*, 639 F.2d 1358, 1378 (5th Cir. 1981); Carroll County, *Carrollton Branch of NAACP v. Stallings*, 829 F.2d 1547, 1559 (11th Cir. 1987); Colquitt County, *Cross v. Baxter*, 604 F.2d 875, 880 n.8 (5th Cir. 1979); Dougherty County, *Paige v. Gray*, 437 F.Supp. 137, 158 (M.D.Ga. 1977); Fulton County, *Pitts v. Busbee*, 395 F.Supp. 35, 40 (N.D.Ga. 1975); Putnam County, *Bailey v. Vining*, 514 F.Supp. 452, 461 (M.D.Ga. 1981); and Wilkes County, *Wilkes County, Georgia v. United*

States, 450 F.Supp. 1171, 1174 (D.D.C. 1978). Fulton and DeKalb Counties. *Busbee v. Smith*, 549 F. Supp. 494, 499 (D.D.C. 1982) (three-judge court), *aff'd*, 459 U.S. 1166 (1983).

103. In each of the following counties and municipalities, located in whole or in part in the present Eleventh Congressional District, voting rights litigation against the jurisdiction resulted in changes in the challenged electoral system(s) and/or judicial findings of racial bloc voting: Baldwin County, *Boddy v. Hall*, Civil Action No. 82-406 (M.D.Ga. 5/17/84, 6/7/84) (Abrams Exhibits 2 and 3); City of Milledgeville, *NAACP v. City of Milledgeville*, Civil Action No. 83-145-01 (M.D.Ga. 6/30/83) (Abrams Exhibit 4); Burke County, *Lodge v. Buxton*, 639 F.2d 1358, 1378 (5th Cir. 1981) *aff'd sub nom. Rogers v. Lodge*, 458 U.S. 613 (1982); Effingham County, *Local Organization for Voters Equality v. Conaway*, Civil Action No. CV484-39 (4/16/84) (Abrams Exhibit 5); Butts County, *Brown v. Bailey*, Civil Action No. 84-223 (M.D.Ga. 1984) (Abrams Exhibit 6); Greene County, *Bacon v. Higdon*, Civil Action No. 85-40-ATH (M.D.Ga. 1/10/86) (Abrams Exhibit 7); Henry County, *Head v. Henry County Board of Commissioners*, Civil Action No. C-79-2063A (N.D.Ga. 7/17/80) (Abrams Exhibit 8); Jefferson County, *Tomlin v. Jefferson County Board of Commissioners*, Civil Action No. CV683-23 (S.D.Ga. 9/29/83) (Abrams Exhibit 9); Jenkins County, *Greene v. Bragg*, Civil Action No. 691-078 (S.D.Ga. 10/4/93) (Abrams Exhibit 10); Putnam County, *Bailey v. Vining*, Civil Action No. 76-199-MAC (M.D.Ga. 4/5/82, 4/22/82) (Abrams Exhibits 11 and 12); Putnam County, *Bailey v. Vining*, 514 F.Supp. 452, 461 (M.D.Ga. 1981); Richmond County, *Hamilton v. Board of Commissioners of Richmond County, Georgia*, Civil Action No. CV178-226 (S.D.Ga. 1984) (Abrams Exhibit

13); City of Augusta, *United States v. City Council of Augusta, Georgia*, Civil Action No. CV187-004 (S.D.Ga. 7/22/88) (Abrams Exhibit); Screven County, *Culver v. Krulic*, Civil Action No. 484-139 (S.D.Ga. 11/6/84) (Abrams Exhibit 15); Screven County, *United States v. Screven County, Georgia*, Civil Action No. CV692-154 (S.D.Ga. 12/16/92) (Abrams Exhibit 30); Twiggs County, *Bond v. White*, 377 F.Supp. 514 (M.D.Ga. 1974); Wilkes County, *Wilkes County, Georgia v. United States*, 450 F.Supp. 1171, 1174 (D.D.C. 1978); City of Waynesboro, *Sullivan v. DeLoach*, Civil Action No. CV176-238 (S.D.Ga. 9/22/77) (Abrams Exhibit 16); City of Warrenton, *Warren County Branch of the NAACP v. Haywood*, Civil Action No. CV-187167 (S.D.Ga. 8/10/89) (Abrams Exhibit 17).

SEGREGATED EDUCATIONAL INSTITUTIONS

104. The 1945 Amendment to the Constitution of the State of Georgia continued, *inter alia*, the then existing requirement of segregated public schools and the Georgia General Assembly enacted legislation requiring segregated common schools and providing, among other things, that "no teacher receiving or teaching white and colored pupils in the same schools shall be allowed any compensation out of the common school fund." Both of these provisions were subsequently abolished.

105. In 1945, the Georgia General Assembly passed a proposed Constitutional Amendment pertaining to endowments to educational institutions open to the public. The proposed amendment stated, among other things, "that all endowments to institutions established for white people, shall be limited to white people, and all endowments to institutions established for colored people shall be limited to colored people." These provisions are no longer in force in Georgia.

106. The Supreme Court in *Brown v. Board of Education*, 347 U.S. 483 (1954), held that segregation of white and Negro children in the public schools of a state solely on the basis of their race, denies to Negro children the equal protection of the laws guaranteed by the Fourteenth Amendment.

107. Following the Supreme Court's decision in *Brown v. Board of Education*, the Georgia General Assembly in 1955 passed a resolution declaring that the federal government had "greatly encroached, directly and indirectly, upon the operation of State schools," and encouraged the United States Congress to convene a constitutional convention for the purpose of amending the United States Constitution to state that "nothing shall, in any way, take away from, or in any manner deprive, the right of the several States of the Union to operate their school systems, and to have exclusive and complete power to regulate and to determine the rules and regulations for the conduct and operation of State schools." The United States Congress took no such action.

108. Following the Supreme Court's school desegregation decisions in *Brown v. Board of Education*, 347 U.S. 483 (1954) and *Brown v. Board of Education (No. II)*, 349 U.S. 294 (1955), the Georgia General Assembly in 1956 passed a resolution which expressed the view that Georgia had neither "surrendered to the General Government its right to maintain racially separate public schools and other facilities," nor agreed to such a prohibition when ratifying the Fourteenth Amendment, and that the United States Supreme Court's decisions were "null, void and of no force or effect." No legislation implementing the subject matter of said resolution was passed.

109. In 1955, the Georgia General Assembly enacted legislation which, *inter alia*, prohibited the use of state or local funds for integrated public schools in the State and made it a felony to violate such prohibitions. These provisions are no longer in force in Georgia.

110. In 1955, the Georgia General Assembly passed two resolutions calling upon the United States Congress to convene a Constitutional Convention to amend the Constitution: (1) to vest exclusive authority to regulate, administer and operate public schools in the States; and (2) to eliminate federal court jurisdiction in any case drawing into question the administration of state public school systems. The United States Congress took no such action.

111. In 1956, the Georgia General Assembly adopted a resolution urging the Congressional delegation from Georgia to oppose HR 7535, a federal education bill which called for the denial of federal funds to states that continued to segregate their public schools, for the stated reasons that the bill would result in increased taxation and that it constituted an unacceptable federal encroachment on state sovereignty. The bill nonetheless passed.

112. In 1956, the Georgia General Assembly passed a bill enabling the Governor to close public schools under certain prescribed circumstances, and, among other things, to provide students in any such closed school districts with state and local public grants to be used for educational purposes. Those provisions are no longer in force in Georgia.

113. In 1956, the Georgia General Assembly provided for the cut-off of further state funds upon admission of blacks to a state university. Those provisions are no longer in force in Georgia.

114. In 1957, the Georgia General Assembly adopted legislation providing the Governor with the authority to suspend the operation of the state compulsory school attendance law when necessary because of any riot, insurrection, public disorder, disturbance of the peace, natural calamity or disaster, in order to protect persons and property or to preserve the health and welfare of the citizens, or to preserve the general welfare of the state. These provisions are no longer in force in Georgia.

115. In 1957, the Georgia General Assembly passed a resolution which expressed the view that the Congress which had proposed the 14th and 15th Amendments was improperly constituted, that the amendments were not promulgated in the manner specified by the Constitution, that ratification of those amendments had been militarily coerced, and urged the United States Congress to declare the Fourteenth and Fifteenth Amendments of the United States Constitution "null and void and of no effect." The United States Congress took no such action.

116. In 1957, when the Judiciary Committee of the United States House of Representatives was considering civil rights legislation, the Georgia General Assembly passed a resolution requesting the United States House of Representatives to permit "appropriate public officials and citizens to appear before the [Judiciary] committee . . ." In support of its request, the General Assembly stated, among other things, that "the [Judiciary] committee should not take speedy action on legislation of this type, particularly in view of the fact that there are serious legal and constitutional objections thereto."

117. In 1958, after President Eisenhower called out military forces in Little Rock, Arkansas to enforce

school desegregation orders issued by the courts, the Georgia General Assembly passed a resolution detailing the view that the president had thereby exceeded his powers, and that his actions were unlawful and unconstitutional for various reasons expressed in the resolution. The resolution censured President Eisenhower for those actions, and charged among other things that "the president sacrificed the honesty and integrity of our highest executive office on the alter of political expediency to appease the NAACP and other radical, communist sympathizing organizations."

118. In 1959, the Georgia General Assembly passed a resolution requesting that the Georgia Department of Education prepare an outline of the grades and courses taught in public schools in order "to offer a teaching guide around which to build private schools in Georgia." The General Assembly declared that this effort was "for the use of existing public and private schools, and for the information of any and all other citizens of Georgia," and stated that "such information will be of the utmost value in the assisting and solving of the most pressing and grave problem ever to be presented to public education in this State. . ."

119. In 1959, the Georgia General Assembly authorized the Governor to close any public school if the Governor determined that continued operation was likely to result in or cause violence or public disorder, or that it was necessary to close the school in order to preserve order, peace and dignity of the state, and established criminal sanctions for failure to comply with such an executive order. These provisions are no longer in force in Georgia.

120. In 1959, the Georgia General Assembly authorized the Governor to close any branch or department

under the control of the Board of Regents of the University System of Georgia if the Governor determined that continued operation was likely to result in or cause violence or public disorder, or that it was necessary to close the school in order to preserve order, peace and dignity of the state. These provisions are no longer in force in Georgia.

121. The University of Georgia refused to admit black students until that practice was declared unlawful and enjoined by a federal court in 1961. *Holmes v. Danner*, 191 F. Supp. 394 (M.D.Ga. 1961); *Ward v. Regents of University System of Georgia*, 191 F. Supp. 491 (N.D.Ga. 1957).

122. The first black student is believed to have matriculated to the University of Georgia Law School in 1963; he graduated in 1966.

123. From 1968 through 1973 school years, no first year class of the University of Georgia law school had as many as ten black students. Fourteen black students were enrolled at the University of Georgia law school in 1973.

124. In 1959, the Georgia General Assembly passed a resolution urging the United States Congress to call a constitutional convention to amend the United States Constitution to vest exclusive power over the operation of public schools to the states and its subdivisions. The United States Congress took no such action.

125. In 1960 the Georgia General Assembly enacted a law which by its terms prohibited municipal corporations in Georgia from levying taxes to support and maintain integrated public schools. These provisions are no longer in force in Georgia.

126. In 1961, the Georgia General Assembly enacted

legislation that established public grants to enable students to attend private schools of their choice in lieu of public schools. One of the stated purposes of the legislation was "to further secure the constitutional rights of school children to attend private schools of their choice in lieu of public schools." These provisions are no longer in force in Georgia.

127. In 1961, the Georgia General Assembly proposed a state constitutional amendment declaring that "[f]reedom from compulsory association at all levels of public education shall be preserved inviolate," and providing for taxation to provide adequate education for the citizens of Georgia.

128. In 1965, the Georgia General Assembly passed a resolution requesting Congress to call a constitutional convention to amend the United States Constitution, proposing an amendment reading: "Among the rights reserved to the states shall be the right to sole, and exclusive jurisdiction of public school systems in the separate states . . ." The United States Congress took no such action.

129. In 1971, the House of the Georgia General Assembly passed a resolution urging the Georgia Congressional delegation to enact federal legislation eliminating busing as a measure to achieve "an arbitrary racial balance of pupil population," for the stated reason that busing is disruptive of the educational process, consumes a significant portion of the transported student's time which could be more productively used in pursuit of educational and recreational activities, and diverts school system assets from educational processes. The United States Congress took no such action.

OTHER GEORGIA RACIAL HISTORY

130. In 1955, the Georgia General Assembly adopted a resolution calling upon the Congress to convene a constitutional convention to amend the United States Constitution to permit members of the armed services to serve in racially segregated units. No action was ever taken by the Congress on the resolution.

131. In 1956, the Georgia General Assembly enacted a law authorizing the General State Patrol and Georgia Bureau of Investigation to enter in any county or municipality upon the request of any citizen or official thereof, to enforce Georgia's segregation laws. These provisions are no longer in force in Georgia.

132. In 1956, the General Assembly authorized state and local governments to dispose of any property comprising parks, swimming pools, or other property "dedicated to public use or recreation or park purposes," enacted a law requiring common carriers to provide separate station rooms labelled "White Waiting Room, Intrastate Passengers" and "Waiting Room, Interstate Passengers and Colored Intrastate Passengers," and adopted an Act making it a misdemeanor for an intrastate traveler to occupy a waiting area not designated for such traveler's race. These provisions are no longer in force in Georgia.

133. In 1956, the Georgia State Law Department published a "Compilation of Georgia Laws and Opinions of the Attorney General relating to Segretation of the Races." In his introduction to this publication, the Georgia Attorney General stated, "A perusal of the many segregation laws included herein, affecting as they do almost every phase of human endeavor to which the authority of government traditionally extends, convincingly demonstrates the predominant influence that

racial segregation has exerted in the sociological development of the two races in this State." Georgia State Law Department, *Compilation of Georgia Laws and Opinions of the Attorney General relating to Secregation of the Races*, pp. 2, 3 (April 1956). An authentic copy of this compilation of segregation laws is Exhibit U.S. 55.

134. Prior to 1968, the State of Georgia maintained racially segregated penal institutions. These segregated penal institutions were declared unlawful in *Wilson v. Kelley*, 294 F. Supp. 1005 (N.D. Ga. 1968), *aff'd* 393 U.S. 266 (1968)

GEORGIA SOCIOECONOMIC DEMOGRAPHICS

135. In Georgia, white households have a per capita income of $15,832, black households have a per capita income of $7,997, or 50.5 percent of the per capita income of whites. 1990 Census, Table 17, Selected Characteristics of Persons by Race and Hispanic Origin, at p. 49. Abrams Exhibit 1.

136. In Georgia, white households have a mean income of $41,043, black households have a mean income of $23,752, or 57.9 percent of the mean income of whites. 1990 Census, Table 17, at p. 49. Abrams Exhibit 1.

137. In Georgia, of 1,757,768 white households, 90,861 (5.2%) have per capita income less than $5,000; of 573,290 black households, 94,391 (16.5%) have per capita income less than $5,000. 1990 Census, Table 17, at p. 49. Abrams Exhibit 1.

138. In Georgia, of 1,757,768 white households, 84,453 (4.8%) have per capita income of $100,000 or more; of 573,290 black households, 4,228 (0.7%) have per capita income of $100,000 or more. 1990 Census, Table 17, at p. 49. Abrams Exhibit 1.

139. In Georgia, of 2,997,958 white persons 25 years and over, 74.9 percent háve high school diplomas or higher education, and 21.8 percent have bachelor's degree or higher education; of 954,209 black persons 25 years and over, 58.6 percent have high school diplomas or higher education and 11.0 have bachelor's or higher education. 1990 Census, Table 17, at p. 49. Abrams Exhibit 1.

140. In Georgia, of 2,479,480 white persons 16 years and over in the labor force, 98,944 (4.0%) are unemployed; of 802,174 black persons 16 years and over in the labor force, 85,049 (10.6%) are unemployed. 1990 Census, Table 17, at p. 49. Abrams Exhibit 1.

141. In Georgia, of 1,279,452 white families, 79,248 (6.2%) have income below poverty level; of 418,583 black families, 114,519 (27.4%) have income below poverty level. 1990 Census, Table 17, at p. 50. Abrams Exhibit 1.

142. In Georgia, of 4,496,697 white persons, 394,561 (8.8%) have income below poverty level; of 1,678,436 black persons, 507,992 (30.3%) have income below poverty level. 1990 Census, Table 17, at p. 50. Abrams Exhibit 1.

143. In Georgia, of 313,042 white children under age five, 34,251 (10.9%) have income below poverty level; of 162,216 black children under age five, 70,953 (43.7%) have income below poverty level. 1990 Census, Table 17, at p. 50. Abrams Exhibit 1.

144. In Georgia, of 183,179 white persons 75 and over, 38,947 (21.3%) have income below poverty level; of 51,383 black persons 75 and over, 23,605 (45.9%) have income below poverty level. 1990 Census, Table 17, at p. 50. Abrams Exhibit 1.

145. In Georgia, of 1,279,452 white families, 139,156

(10.9%) are female-headed households with no husband present; of 418,583 black families, 180,908 (43.2%) are female-headed households with no husband present. 1990 Census, Table 17, at p. 50. Abrams Exhibit 1.

1970s REDISTRICTING

156. On November 4, 1971, Georgia submitted a congressional redistricting plan to the Attorney General for review pursuant to Section 5 of the Voting Rights Act. The plan had been enacted into law in October 1971. See Exhibit U.S. 1.

157. According to the state's November 4, 1971 submission of this redistricting plan was to comply with the one person, one vote principle. "The act was adopted in order to ensure that the apportionment of the Georgia Congressional Districts corresponds to the one man-one vote standard enunciated by the United States Supreme Court." 1971 submission, at 1.

158. The 1971 redistricting was required by an unreported three-judge court opinion and order in *Cahoon* v. *Maddox*, C.A. No. 13011 (N.D. Ga., January 12, 1970).

159. Changes in the distribution of the state's population between 1960 and 1970 made it necessary to change the boundaries between the various congressional districts. According to the state's November 4, 1971, submission, "The difference between the old and new law is that the new apportionment act establishes districts which are very nearly equal in population." 1971 Submission, at 1.

160. According to data compiled by the U.S. Bureau of the Census, the nonwhite population of Fulton County, Georgia, increased from 34.8 percent of the county's total population in 1960 to 39.3 percent in 1970.

161. According to data compiled by the U.S. Bureau of the Census, the nonwhite population of the city of Atlanta (located primarily in Fulton County but with a small portion in DeKalb County) increased from 38.3 percent in 1960 to 51.6 percent in 1970.

162. On the basis of the one-person, one-vote standard, the ideal congressional district population after 1970 was 458,958. That part of the city of Atlanta located in Fulton County had a population of 450,286 in 1970, only 8,672 persons less than the size of an ideal congressional district.

163. In its November 4, 1971, submission the State of Georgia stated that it used racially neutral redistricting principles in creating its congressional redistricting plan. Attorney General Arthur K. Bolton stated in the submission that racial composition data "were not used by the General Assembly to calculate the new districts." The state did not include such data with its Section 5 submission, noting that "population information by race may be obtained from the Bureau of the Census." 1971 Submission, pp. 2, 5.

164. The state's 1971 submission stated: "The General Assembly contracted with the computer center at the University of Georgia to assist in establishing equal districts. The contract specifically prohibited the Center from programming racial data." 1971 Submission, at 3.

165. The state's 1971 submission included, as documentation of the contract referenced in the preceding paragraph, a newspaper article about the contract: Prentice Palmer, "COMPUTER IN REMAP TO SKIP VOTE RECORD: RACE MAKEUP ALSO RULED OUT AS HOUSE HIRES ATHENS TEAM," *Atlanta Journal*, April 8, 1971, at 1A, 6A. An authentic copy of the newspaper article referenced by the state is Exhibit U.S. 2.

166. According to the state's 1971 submission, one reason why the state prohibited the computer center from entering racial data was that "it was believed that the use of such data might itself be constitutionally impermissible." 1971 Submission, at 3.

167. According to the state's 1971 submission, "the basic plan was to maintain the integrity of the counties, where possible. Where it was necessary to divide a county, the breakdown was according to census county division, census tract, enumerated district, or in a few instances, census blocks." 1971 Submission, p. 3.

168. The existing congressional redistricting plan, in effect since 1964, split Fulton County between the fourth and fifth congressional districts by assigning a strip along the eastern border of Fulton County to the fourth district. An authentic copy of the map of this plan, as included in the state's November 4, 1971 submission is Exhibit U.S. 3.

169. The congressional redistricting plan adopted by the state in 1971, restored most of the aforesaid portion of eastern Fulton County to the Fifth Congressional District and assigned in portions of southern Fulton County to the Fourth and the Sixth Congressional Districts. An authentic copy of the map of this plan, as included in the state's November 4, 1971 submission is Exhibit U.S. 4.

170. The 1971 congressional redistricting plan split Fulton County into the Fourth, Fifth and Sixth Districts. One county was split between the Seventh, and Ninth Congressional Districts.

171. The congressional redistricting plan adopted by the state in October 1971 assigned portions of southwestern Atlanta to the Sixth Congressional District.

See Exhibit U.S. 5.

172. According to the aforesaid comment of the Fulton County Democratic party, both Atlanta Vice-Mayor Maynard Jackson, who is black, and Andrew Young, a black candidate for the fifth district seat in 1970 against incumbent Republican Fletcher Thompson, resided in the area of southwestern Atlanta moved from the Fifth to the Sixth congressional district in the plan adopted by the state in 1971. Exhibit U.S. 5.

173. In those portions of the city of Atlanta moved from the Fifth to the Sixth Congressional District, 8,907 (52.6 percent) of the registered voters were black. In those areas of Fulton County outside the city limits of Atlanta that remained in the Fifth Congressional District, 56,588 (98.9 percent) of the registered voters were white. Exhibit U.S. 5.

174. According to Exhibit U.S. 5, Fulton County Democratic Party incumbent Congressman Fletcher Thompson and state Senator Frank Coggins, one of the co-authors of the congressional redistricting plan adopted by the state in October 1971, resided in that area of Fulton County south of Atlanta that remained in the Fifth Congressional District.

175. Senator Leroy Johnson, the first black person elected to the Georgia General Assembly in the twentieth century, developed a partial congressional redistricting plan in which the Fifth Congressional District would be composed primarily of the city of Atlanta, with some predominantly white areas of northern Fulton County shifted into the fourth district. The vote in the Senate on the Johnson plan on September 30, 1971, was nine in favor, with 43 opposed. Exhibit U.S. 6.

176. Representative Benjamin D. Brown introduced a

partial congressional redistricting plan in the Georgia House on October 4, 1971. Using 1970 census data, the nonwhite population of the Fifth District was 49.2 percent in the Brown plan. The Brown plan placed predominantly white northern portions of Fulton County in the Fourth Congressional District. Exhibit U.S. 6.

177. The congressional redistricting plans submitted by Senator Johnson and Representative Brown, as referenced in the preceding paragraphs, were defeated by substantial margins. However, all 13 black representatives in the House voted for the Brown plan, and both black senators voted for the Johnson plan. 1971 Senate Journal, at 118; 1971 House Journal, at 3611-3612.

178. In the House Committee on Legislative and Congressional Reapportionment, Representative Grace Hamilton, the only black member of the committee, introduced a congressional redistricting plan, which was not approved by the committee. Exhibit U.S. 6.

179. On February 11, 1972, the Attorney General of the United States interposed a timely objection to the congressional redistricting plan submitted on November 4, 1971, on the grounds that the state had not met its burden of proof regarding the boundaries between the Fifth and Sixth Congressional Districts. "With respect to those [districts], after careful review of all the information available to us we have been unable to conclude, as we must under the Voting Rights Act, that these new boundaries will not have a discriminatory racial effect on voting by minimizing or diluting black voting strength in the Atlanta area." Exhibit U.S. 7.

180. In 1982, a federal court concluded that the congressional redistricting plan adopted by the state of Georgia in 1971 was drawn to fragment black voting strength in the Atlanta area and to place the residences

of black persons clearly recognized as potential candidates for election to Congress from the Fifth District just across the border in the Sixth Congressional District. *Busbee* v. *Smith*, 549 F. Supp. 494, 500 (D.D.C. 1982).

181. The United States Attorney General precleared a revised congressional redistricting plan for the State of Georgia on April 11, 1972. Exhibit U.S. 8.

241. In 1972, Andrew Young became the first black person since the Reconstruction period to be elected to the United States Congress from the State of Georgia. From 1972 until 1992, no more than one black person at a time was a member of Georgia's congressional delegation.

I. DECLARATIONS OF SELWYN CARTER
[Abrams' Exh. 35]

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

Civil Action No.

CV 194-008

DAVIDA JOHNSON, ET AL. *Plaintiffs*,

v.

ZELL MILLER, ET AL., *Defendants*,

and

LUCIOUS ABRAMS, JR., ET AL,

Defendant-Intervenors,

UNITED STATES OF AMERICA,

Defendant-Intervenor.

DECLARATION OF SELWYN CARTER

Pursuant to 28 U.S.C. §1746, I declare that:

1. My name is Selwyn Carter. I am the Director of the Voting Rights Program of the Southern Regional Council, Atlanta, Georgia. The Council is a non-profit human rights organization.

2. I am a graduate of City College of New York, where I majored in economics. I have completed the course work for a masters degree in political management at the Graduate School of Political Management at George Washington University.

3. The Voting Rights Program of the Southern Regional Council provides various services to community groups and sub-units of government, primarily in the South. These services include preparing proposed redistricting plans for local and state legislative bodies and for the Congress. I have prepared numerous redistricting plans using redistricting computer software and have given declarations similar to this in other court cases.

4. During July, 1995 I was contacted by Laughlin McDonald, one of the attorneys for the Abrams intervenors. He asked me to prepare one or more congressional redistricting plans for the state of Georgia. He advised me that the Supreme Court invalidated the existing Eleventh District on June 29, 1995 in *Miller v. Johnson*, and that the Court concluded that race had been the predominant factor in the 1992 redistricting process and that the state had subordinated all its traditional redistricting principles to race.

5. In preparing my plans, Mr. McDonald instructed me to rely to the greatest extent possible upon the state's traditional non-racial redistricting principles, which I attempted to do. In this connection, he provided me with a copy of the redistricting guidelines adopted by the state during the 1991-1992 redistricting process. A copy of these guidelines is attached to this declaration.

6. Mr. McDonald also instructed me that while race could be considered as one of many factors in redistricting, race could not be the predominant factor in the construction of any redistricting plans nor could the state's traditional redistricting principles be subordinated to race.

7. In preparing the redistricting plans my staff and I applied the following criteria:

a. Complying with one person-one vote as nearly as is practicable.

b. Using only single-member districts.

c. Insuring that districts are composed of contiguous geography.

d. Maintaining the integrity of political subdivisions as much as possible.

e. Maintaining the cores of existing districts.

f. Protecting and avoiding contests between incumbents.

g. Using local voting precinct boundary lines as the basic district building blocks, or where that is not practicable census block group geography.

8. Mr. McDonald further advised me that the plans he wanted me to draw were intended to be remedial and to be proposed remedies for the violation found by the Supreme Court, which he said involved the construction of the Eleventh District. He asked me to focus on the Eleventh District and not to change other districts any more than was necessary in redrawing the Eleventh and in complying with the state's traditional redistricting principles.

9. Mr. McDonald also advised me that the plans he wanted me to draw might be filed with the court as proposed court ordered remedies, and that as a consequence I should try to keep the population deviations as low as possible.

10. Applying the instructions and guidelines described above, my staff and I prepared three redistricting plans. The first is dated August 8, 1995 and is marked SRC/ACLU Plan A. A copy of Plan A is attached. This plan was actually introduced before the house and sen-

ate reapportionment committees on behalf of the black legislative caucus but was not adopted. Under Plan A, the Eleventh District consists of the following whole counties: Burke, Jefferson, Washington, Hancock, Taliaferro, Greene, Putnam, Jasper, Newton, and Rockdale. Portions of Richmond, Warren, DeKalb and Fulton Counties are also included in the Eleventh District. Under the pre-existing 1992 plan invalidated by the Supreme Court nine counties were split. The total deviation among districts under Plan A is 0.21%.

11. In constructing Plan A, I avoided using so-called land bridges and did not include any portions of Savannah. I also attempted to make the Eleventh District as regular as possible while at the same time applying the guidelines described above. Race was not the predominant factor in the construction of Plan A, nor were the state's traditional redistricting principles subordinated to race. That is apparent from: (1) the regular shape and compactness of the Eleventh District; (2) the number of whole counties in the district; (3) the fact that the black voting age population in the district was reduced from 60.4% to 53.05%; (4) the fact that the deviation is only 0.29%; (5) the fact that the district follows the core of the old Tenth District under the 1982 plan; and, (6) insofar as I am aware no two incumbents are placed in the same district.

12. My staff and I drew a second redistricting plan dated August 9, 1995 which is marked SRC/ACLU Plan B. A copy of Plan B is attached. The Eleventh District under Plan B has the same configuration as under Plan A. The difference between the two plans is that fewer counties are split in Plan B. I drew Plan B simply to show that a plan could be drawn, in conformity with the state's traditional redistricting principles, that minimized the number of split counties. However, because

fewer counties are split under Plan B it has a deviation of 0.51%, which is higher than the deviation in Plan A.

13. My staff and I drew a third redistricting plan which is marked Plan C, a copy of which is attached. Plan C was generated using the state's, rather than the Southern Regional Council's, computer. The significant differences in Plan C and the other two plans are that no portions of Richmond County are included in the Eleventh District, and only two counties are split, Fulton and DeKalb. Overall, only seven counties are split in Plan C, Muscogee, Fulton, DeKalb, Clayton, Cobb, Gwinnett, and Bibb, all of which are in heavily populated urban areas of the state. However, because few counties were split, the total deviation among districts is 0.99%, the greatest deviation among the three plans.

I declare under penalty of perjury that the above and foregoing is true and correct. Executed at Atlanta, Georgia this 31st day of August, 1995.

SELWYN CARTER

8/31/95

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

Civil Action No.

CV 194-008

DAVIDA JOHNSON, ET AL. *Plaintiffs,*

v.

ZELL MILLER, ET AL., *Defendants,*

and

LUCIOUS ABRAMS, JR., ET AL,

Defendant-Intervenors,

UNITED STATES OF AMERICA

Defendant-Intervenor.

SUPPLEMENTAL DECLARATION OF SELWYN CARTER

Pursuant to 28 U.S.C. §1746, I declare that:

1. My name is Selwyn Carter. The purpose of this supplemental declaration is to correct an error in my prior declaration.

2. The data for Plan A, which was dated August 8, 1995, included in my prior declaration was for a revision of Plan A and was mistakenly attached to the declaration. The correct demographic data and map for Plan A is attached and is dated July 31, 1995. The differences between the July 31, 1995 plan and the August 8, 1995

revision are minor, the principle one being that the July 31, 1995 plan has a total deviation of .29% and the August 8, 1995 plan has a total deviation of .45%. The configuration of the Eleventh District is the same under both plans.

I declare under penalty of perjury that the above and foregoing is true and correct. Executed at Atlanta, Georgia this day of October, 1995.

SELWIN CARTER

10/10/95

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

Civil Action No.

CV 194-008

DAVIDA JOHNSON, ET AL. *Plaintiffs*,

v.

ZELL MILLER, ET AL., *Defendants*,

and

LUCIOUS ABRAMS, JR., ET AL,

Defendant-Intervenors,

UNITED STATES OF AMERICA,

Defendant Intervenor.

SECOND SUPPLEMENTAL DECLARATION OF SELWYN CARTER

Pursuant to 28 U.S.C. §1746, I declare that:

1. My name is Selwyn Carter.

2. I was asked by Laughlin McDonald, one of the attorneys for the Abrams intervenors, to prepare a congressional redistricting plan that complied with the Order of the Court dated October 17, 1995, *i.e.*, that "makes the least changes, in terms of line drawing, in Georgia's present congressional plan but at the same time brings the Eleventh District into compliance with the United States Constitution." I was also asked by Mr.

McDonald to draw a plan applying the same standards set out above that assumed that the Second District is now unconstitutional.

3. In addition, Mr. McDonald requested me to draw a plan that complied with the subsequent Order of the Court dated October 20, 1995, *i.e.*, that was "based on the first plan that Georgia submitted to the Department of Justice for preclearance."

4. Pursuant to these instruction a plan was prepared under my supervision, a copy of which is attached and designated ACLU1A. This plan assumes that the Second District is also unconstitutional.

5. In drawing ACLU1A, I attempted to make the least changes possible in the existing plan but at the same time address the problem areas identified in the opinions of this Court and the Supreme Court.

6. The Ninth District is totally unchanged in ACLU1A from the existing plan.

7. There are only minimal changes in the Fourth, Fifth, Sixth, Seventh, and Tenth Districts compared to the existing plan. In general the changes that were made were necessary to comply with one person, one vote, and because of changes made in other districts, primarily in the Second and Eleventh Districts.

8. More specifically, in the Tenth District the changes were limited to precinct lines in Richmond and Gwinnett Counties. The changes in Richmond County were made to respond to the finding of the Court that the configuration of the existing plan was designed only to include or link black neighborhoods in the Eleventh District. Under ACLU1A, the Eleventh District is not designed simply to link black neighborhoods, but includes a substantial white population. In addition, the split was

made to comply with the wishes of the Richmond County Commission that the county be split to maximize the representation of the county in Congress. Race was therefore not the predominant reason for splitting Richmond County in ACLU1A, nor is the split simply along racial lines. The Eleventh District includes 115,759 persons from Richmond County of whom 50.19% are black and are of voting age.

9. The changes in the Tenth District in Gwinnett were made to comply with the one person, one vote standard, to compensate for the previously described changes in the Tenth in Richmond County, and to maintain a minimum of county splits.

10. In the Sixth District, precinct changes were limited to Cobb and Gwinnett Counties. The changes in the Sixth in Gwinnett were the result of the changes in Gwinnett in the Tenth described above. The changes in Cobb County were limited to two precincts and were caused by the changes in Gwinnett and because of the need to comply with one person, one vote.

11. In the Seventh District, the changes were the result of the two precinct changes in Cobb County in the Sixth described above. Secondly, Meriwether County was included in the Seventh because the Courts criticized its inclusion into the Second. Further, its inclusion into the Seventh was to comply with one person, one vote.

11. The changes to the Eighth District resulted from bringing the Second and the Eleventh Districts into compliance with the Courts' standards as described above. The removal of Meriwether County from the Second District and population changes resulting from the elimination of splits in the counties of Lowndes, Colquitt, Dougherty, Lee, Crisp, Dooly, Houston,

Bleckley, Twiggs and Crawford necessitated changes to the Eight and Third Districts to bring them into compliance with one person, one vote. While there are many ways to insure compliance with one person, one vote, these particular changes were made to achieve minimum disruption to the existing plan.

12. The changes to the First Congressional District resulted from the removal of the Chatham/Effingham area from the Eleventh District.

13. No counties were split in the First or the Eight Districts.

14. While ACLU1A is based specifically on the existing plan rather than the first plan enacted by the state and submitted to the Department of Justice, ACLU1A fairly incorporates significant features of the first plan. The overriding concern in the construction of ACLU1A was to correct the defects identified by the Courts in the existing plan.

I declare under penalty of perjury that the above and foregoing is true and correct. Executed at Atlanta, Georgia this day of October, 1995.

SELWYN CARTER

October 25, 1995

J. TESTIMONY OF LINDA MEGGERS

[Excerpts from Hearing Testimony, 10/30/95-10/31/95: Tr. p. 20, line 1-p. 21, line 14; p. 26, lines 2-20; p. 31, line 17-p. 32, line 8]

MR. PARKS: Your Honors, we are going to offer Ms. Meggers as a political analyst and expert in redistricting. As to her qualifications I would point out that both this court and the Supreme Court have recognized her as a most knowledgable person in this area.

I intend to ask her both factual questions and questions that will require her to give her opinion. I would like to have her qualified as an expert.

JUDGE BOWEN: Considering the findings of this court and the Supreme Court it would be difficult to deny Ms. Meggers the right to state her opinions. And I'm confident, Ms. Meggers, if you are ask[ed] to state any opinion you do not feel comfortable with you will let is know.

You may elicit her opinion from time to time as is necessary within the sphere of her expertise.

MR. PARKS: Thank you, your Honor.

Q. Ms. Meggers, were you involved in the drawing of the Second Congressional District?

A. Yes.

Q. When, in relationship to the drawing of the Eleventh Congressional District, was the idea or decision made to try to draw a majority black district southwest Georgia[;] did that come before or after [the] Eleventh District?

A. It came after.

Q. In what context?

A. I think at the outset of 1991 there was a purposeful effort on behalf of the General Assembly to draw a second minority majority district. The creation of a the Second as a minority majority district is clearly reflected in the second plan produced by the General Assembly.

To answer your question creation of the Second Congressional District as a minority majority district came later.

* * * * *

Q. Was the portion of Bibb County that was placed in the Eleventh District primarily, in the first plan, the predominantly black population concentrations of Macon and Bibb County?

A. Yes, they were the major black precincts.

Q. The Eleventh District ending here is what we are seeing her[e] the result of what is known as the Macon Savannah trade?

A. Yes, on the third try at drawing the Congressional plan Bibb County was removed from the Eleventh District and that portion of the black population previously in the Eleventh was attached to Second District.

Q. For what reason?

A. That was the one way in which we could achieve a majority black VAP in the Second Congressional District.

Q. So it was racially motivated?

A. Yes.

* * * * *

Q. First taking Muscogee County where has Muscogee County been located, traditionally?

A. In the Third Congressional District.

Q. Why was that?

A. The Third Congressional District, up until 1991, was what we had dubbed, basically, the military district. It included Houston with Warner Robins and Muscogee with Fort Benning.

Q. Where is Fort Benning located?

A. Fort Benning starts, on this one here, it starts here and takes in a big part of Chattahoochee County. It comes down like this and the bulk of Chattahoochee County is below it.

Q. So it takes in the northern portion [of] Chattahoochee County and the southern portion of Muscogee?

A. Yes.

K. TESTIMONY OF SANFORD BISHOP

[Excerpt from Hearing Testimony, 10/30/95-10/31/95 Tr. p. 114, line 17-p. 116, line 7]

During the reapportionment process whenever the question of splitting counties or cities was raised people in the those areas would be on opposite sides. Some will say we don't want our county or city split. So I felt as we went into the special session it would be a good idea to get an indication from the people in those cities or counties as to how they felt about it. In talking with members of city councils and mayors and the administrators for housing authorities and school board members from across the Second District many of them said we like things just the way they are. The only information I could give them was to write your legislator and let him know how you feel because that's going to be an issue. If you are comfortable with this the way it is let someone know. The mayors and councils of Macon, Columbus, Albany and Valdosta have passed resolutions saying they were comfortable with the split. In light of the redistricting process that was pending they did not want making their counties whole to be a consideration. They like having two members of Congress to have their needs addressed. They felt in the long run it was serving their best interests contrary to what they initially felt.

Therefore, they were comfortable in passing a resolution in Macon, Columbus and Albany and those resolutions were passed unanimously. In Valdosta it was by a majority. It was a feeling, even in the business areas, in Columbus, for example, where there had been a great deal of consternation about splitting Muscogee County. After the combined sewer overflows funds were obtained as a result of the freshmen Congressmen work-

ing together to get $20 million for the project that everybody thought was going to be impossible. Working together one Democrat and one Republican were able to get that money. When the Republicans on the Senate side were going to take that money out the Republican member from the Third district was able to keep that money and we were able to secure that project for Columbus.

L. ARGUMENT: LAUGHLIN McDONALD

[Excerpts from Hearing Testimony, 10/30/95-10/31/95 Tr. p. 277, lines 10-22; p. 279, line 15 to p. 280, line 7; p. 282, lines 2-12; p. 283, lines 11-15; p. 283, line 21-p. 284, line 10]

Now, the State argues that it was compelled by the Department of Justice to draw a plan containing two and then three minority majority districts, but the record does not reflect that. Prior to any involvement by the Department of Justice. Prior to the submission of any plan by [*sic*] to the Attorney General the leadership made the decision, based on the fact that the State was gaining a congressional district, that they would draw a second majority black district and that's what they did in the first plan they drew draw [*sic*]. So it was the State's announced policy of having two majority black districts.

* * *

I want to talk for a moment about the retrogression standard and what serves as a basis for determining that. I submit that the 1982 plan cannot serve as the bench mark for retrogression for two reason[s]. First of all that plan is and was an unconstitutional plan. It was in violation of the one person one vote. The Second [*sic*] major problem is that it contains a different number of seats from any existing plan. It was a ten seat plan and we are now dealing with an eleven seat plan[;] it is like comparing apples and oranges. Even if we assume, despite the fact that it is unconstitutional, despite the fact that it contains a different number of seats[,] that [the] 1982 plan should be the bench mark[,] I think any plan that contains less than two minority majority districts is retrogressive for the simple reason that one out of 11 is retrogressive when compared to one out of ten.

* * * * *

The Court said, in an opinion that has been criticized by some, that there are no diminimous [*sic*] deviations in a congressional redistricting plan and invalidated the New Jersey plan because the court said you could have drawn one with a .4 percent deviation. There is no diminimous [*sic*] deviation and a jurisdiction is obligated to make a good faith effort to comply exactly with population equality concepts. Of course, if a legislature has to do that I think it is even more incumbent on [a] District Court to do that when drawing a plan.

* * * * *

Now, in our plan our deviation is .93. So I did want to alert the Court that in our view that is something that the Court needs to be concerned about, but it may be removed by Carsher [*sic*] as long as you have an articulable basis for it.

* * * * *

In our plan we tried to split as few as possible because we wanted to respond to the criticism, but it is clear that you could split some counties here and cure those deviations. It might well be that principle of maintaining the integrity of those counties articulated, expressed and justified in the record would excuse the deviations of that .9 percent. I suppose we are suggesting that it would because we are presenting this plan as one we think would be acceptable. I think some of ones that go up to 1.9 nine that's just inviting a problem, it seems to me, for the court. Aside from the retrogression plan I think that's a serious legal issue if the Court were to draw a plan that contains less than two minority districts.

M. TESTIMONY OF SELWYN CARTER

[Excerpt from Hearing Testimony, 10/30/95-10/31/95 Tr. p. 294, line 17-p. 295, line 3; p. 295, line 14-p. 296, line 12; p. 297, line 12-p. 309, line 17; p. 310, line 14-p. 313, line 3; p. 313, line 19-p. 323, line 21; p. 324-lines 1-25; p. 325, line 9-p. 326, line 15; p. 330, lines 4-12; p. 330, line 19-p. 331, line 6; p. 332, lines 6-14; p. 333, lines 3-6; p. 338, lines 10-20; p. 339, line 3-p. 340, line 19.]

Q. Would you outline your duties with the Southern Regional Council?

A. Certainly. First of all the council is the oldest inter-racial organization in the southeast. We view ourselves as promoting democratic practices in government. My work is to oversee the council's work in the area of promoting fairness in redistricting across the south. We assist state legislatures, attorney generals and community leaders in drafting districting plans and in assessing plans drafted by others for fairness and compliance with the Voting Rights Act.

* * * * *

MR. McDONALD: Your honor, we would like to have Mr. Carter qualified as an expert in the field of demography and redistricting.

JUDGE BOWEN: You may elicit his opinions.

Q. Were you asked to draw or produce any congressional districting plans by the Abrams Intervenors?

A. Yes, I was.

Q. What did you do?

A. I developed a number of plans some of which were presented to the Legislature or rather before the

Reapportionment Committee of the Legislature. A number of them which were presented with affidavits here to this Court.

My basic goal in preparing those plans was to try to show it is possible to develop a constitutional redistricting plan which is fair to both black and whites voters in the State of Georgia and comply with this Court's ruling in Miller v Johnson. To show that it is possible to draw a plan in which African American voters comprise approximately 50 percent of the voting age population of a district and at the same time show that race was not a factor.

* * * * *

MR. McDONALD: Then, your Honor, we have a map which I think it would make sense to introduce as a separate exhibit which is the ACLU1A Plan.

JUDGE BOWEN: Do you want to call that 36?

MR. McDONALD: Yes, sir.

JUDGE BOWEN: All right. 36 is admitted. (Abrams Intervenors Exhibit 36 was received in evidence.)

Q. Mr. Carter, I principally want to ask you about what has been marked Abrams Intervenors Exhibit 36. Did you either construct or supervise the drawing of this plan ACLU1A?

A. The first three plans you mentioned I did draw my myself. This particular plan was drawn under my supervision.

Q. Was it drawn on the state computer?

A. That's correct.

Q. What did you do in generating this plan?

A. The overriding methodology in developing this plan was to correct the constitutional defects in the Eleventh Congressional District and assume that the Second Congressional District was unconstitutional and correct to [*sic*] assumed defect in that district and to maintain the remaining districts with as little change as possible.

Q. What changes did you make to the Eleventh Congressional District compared to the existing plan? The existing plan is below the plan that you prepared, can you see that?

A. Yes, I can.

There were a number of changes. The principal changes were the extensions of the district through Effingham County and Chatham county were removed because they were identified by this Court and the Supreme Court at [*sic*] being clear examples of racial gerrymandering of the district.

In addition the way in which this district goes into Richmond County through what's been called the back door was corrected. That was corrected by bringing in a considerable number of white voters previously in the Tenth District and transferring them to the Eleventh District.

Q. Richmond County is split in your plan?

A. Yes, sir, it is split.

Q. Is that split made along racial lines?

A. No, it's not. In fact, Richmond County contains 115,000 voters in the Eleventh district[.] Approximately 50 percent African America[n]s of voting age and 47 percent white voters. It is difficult to give the exact number for the black and white voters because on the

plans that are produced on the system at the Southern Regional Council we publish the demographics showing the white population and the white voting age population and the black population and the black voting age population and the system used by the State of Georgia doesn't.

Q. Why was this plan drawn on the State's computer as opposed to the Southern Regional Council's computer?

A. The State's computer contained the most current precinct boundaries and we wanted to draw the plan using the most up to date precinct boundaries so as not to split precincts.

Q. What other changes did you make compared to the existing plan?

A. In addition to the ones in Effingham[,] Chatham and Richmond there are a couple of areas where rural counties had been split in the Eleventh District, the Counties of Baldwin, Twiggs and Wilkes County. The splits in those rural counties were eliminated in this particular plan and they were primarily eliminated because our goal was to essentially restore the integrity of those rural political subdivisions and make the integrity of those subdivisions predominant. Clearly here in [*sic*] an attempt was made to draw a plan in which race was not the predominant factor. If race was predominant we would have drawn this plan at a lower level of geography.

Additionally the other principal change has to do with the border between the Eleventh and Fifth Districts. Currently the Fifth District extends from Fulton County across the border into DeKalb County and into what is known as east Atlanta. In ACLU1A the division

between the Fifth District and the Eleventh District is the county line.

Q. How many whole counties are there in 1A?

A. Do you want me to get up there and count them?

Q. Are there 14?

A. There are probably 14 or 15.

CHIEF JUDGE EDENFIELD: What was your question?

MR. McDONALD: I asked him how many whole counties were in this version of the Eleventh Congressional District?

A. There are 14 counties in the district that are intact.

Q. Why did you include 14 whole counties in the Eleventh?

A. As I previously mentioned one of the overriding goals was to try to show that it is possible to draw districts in the State of Georgia for members of Congress that did not use race as a predominant feature and on the other hand were fair to black as well as white voters.

During the special session there was much fuss made about maintaining the integrity of county boundary lines, particularly in the rural county areas and it was an [*sic*] almost defined as a litmus test in determining whether race was a predominating factor. So we determined it was necessary in this plan not to have any rural counties split.

Q. Did you construct the counties in the Eleventh to comply with one person one vote?

A. Yes, but a more overriding reason was to keep the

political subdivisions intact. I say that because sometimes when you tend to focus on keeping whole counties intact that has the effect of increasing the overall deviations of the plan. So I would say that respect for political subdivisions was the higher criteria.

Q. Were you concerned with retrogression?

A. As it relates to the border between the Fifth and Eleventh Districts that was a factor. Because the Fifth is an historical district that is protected under the Voting Rights Act. We were concerned that we preserve the Fifth District to offer the voters in metro Atlanta an opportunity to elect the candidate of their choice.

Q. Were you concerned about maintaining contiguity?

A. That is always a factor.

Q. What about protecting incumbents was that a factor?

A. It was not a predominant factor, but it was considered on the several occasions. I didn't know the home addresses of the incumbent Congressperson. Usually when I draw a plan I prefer to have the home addresses of the incumbents, but that was not available on the State system and that was not taken into account here.

Q. What is the total deviation in this plan?

A. .93.

Q. Would it be up [*sic*] possible, by splitting some additional counties in the plan, to lower that deviation?

A. Yes. Generally if you draw a plan at a lower level of geography you can get more precise and bring the deviations down to almost zero if you want to.

I have been involved in districting in Alabama where

the option that was presented was that the [*sic*] every district had to have exactly the same number of people.

Q. In constructing the Eleventh District was race a predominant factor that you took into account?

A. No.

Q. Did you subordinate traditional State redistricting principles in the construction of this plan?

A. No. If I can elaborate. I reviewed the State's history in congressional redistricting all the way back to the turn of the century to learn how congressional districts in Georgia were drawn. Then I focused on the 1970 and 1980 plans. I believe over there is the map of the 1980's congressional plan. One thing that struck me is that the State of Georgia has a history of drawing congressional districts that are vast in size.

In the 1970's as well as in the 1980's congressional districts encompassed 25 to 30 counties. The Ninth stretched all the way from the South Carolina border all the [way] down into Gwinnette County.

Another feature that I observed about the congressional districts is the State has a tradition of linking together urban and rural areas in congressional districting. What that led me to conclude, on the question of construction of the congressional districts, was that geographic compactness is not an absolute. In terms relative to the drawing of say a school board district I would look for a more insular group. But in a state that has congressional districts that stretch all the way from the Florida border to Jones County north of Macon, in looking at that type of history, I thought it permissible to draw such a district when you are balancing the rights of black and white voters.

Q. Did you attempt to address the issue of land bridges and avoid their use in your construction of the Eleventh?

A. Yes. Specifically in the existing plan there has been much talk about the so called Henry County land bridge. We felt it is was necessary to not have such a land bridge in the Eleventh Congressional District so that was eliminated.

Q. Could you have put all of Henry County into the Eleventh or taken it all out?

A. There are many options in the drawing of congressional districts because of their vast size. Essentially you link together a string of rural counties or urban counties and you come up with a congressional district with a population of approximately 589,000 people. We linked together a string of counties in constructing a number of options for the Eleventh District. Some of the counties were overwhelmingly white and some relatively mixed almost 50 percent black and white and some were slightly black in terms of majority population and we joined together those counties to the [*sic*] make the Eleventh Congressional District.

Q. Let me move on to the First District and ask you what changes you made in the First that are different from the existing First Congressional District?

A. The primary change in the First had to do with the first change I mentioned regarding the Eleventh. The most unacceptable feature of the Eleventh, from everyone I heard from, was the extension of the so-called tail into Effingham and Chatham Counties. Once that was removed it was necessary to take population out of the First so that population was taken out of the First and put into the Eighth. There were four counties that were moved Montgomery, Tattnal, Toombs—three

counties, and those three counties were taken out of First and put into the Eighth.

Q. That's because Effingham and Chatham Counties were included in their entirety in the First?

A. Yes. That was done to balance out the population in terms of one person and one vote. We moved Clinch County from the Eighth back to the First.

Q. Are there any split counties in your version of the First?

A. No, all of the counties are intact.

Q. I asked you a questions earlier with regard to the Eleventh about your decision to keep the counties intact. Would that answer be the same if I ask you why you kept the counties intact in the First?

A. Yes.

Q. Look at the Second. What changes did you make in the Second?

A. When I reviewed the Second there were two principal areas that jumped out at me and a couple additional areas that I was concerned with. The two principal areas were the way in which the Second extended up into Meriwether County. Our first goal was to correct that and to take Meriwether County out of the Second District altogether.

In ACLU1A Meriwether as well as Tolbot Counties are removed from Second Congressional District.

Q. Why did you remove Tolbot County?

A. Once I made additional changes, which I will speak to in a minute, the remaining reason was to balance out the population in terms of one person one vote.

The other feature I was concerned about, as it relates [to] the existing Second Congressional District, was the way the district enters Bibb County in the City of Macon. There was very narrow land bridge, if you will, in the way the district enters Bibb County. Our goal was a [*sic*] correct that and ACLUlA does that by taking additional voters out of Bibb County and the City of Macon and including them in the Second District. A number of those voters who were added were white voters. There were some other changes we made to the Second District.

Q. What were they?

A. There was a string of counties that were split in the Second District and they shared a border with the Eighth District. Our goal was to eliminate these county splits and return the counties to being whole.

Q. Can you tell us what those counties are?

A. Those counties are Lowndes, Colquitt Dougherty, Lee, Crisp, Dooly, Houston, Bleckley, Twiggs and Crawford.

Q. Did you reaggregate those counties for the same reason that you reaggregated counties in the other districts?

A. Yes.

Q. Did the rural urban factor come into play, in any way, in the construction of the Second?

A. Yes, in that, as I mentioned earlier in reviewing the State's history and particularly with regard to the construction of Eighth, Seventh and Ninth Districts, we started to link together urban and rural areas. In doing so there were a number of urban areas currently in the

Second that we have sought to retain. They are Columbus, Macon, Valdosta and Albany.

Q. Do you recall how many total unsplit counties are currently in your version of the district?

A. You have to excuse me. I have been looking at a large number of plans and after a while you start to forget how many counties are in each plan. 26 it [*sic*] what it looks like.

Q. The only counties that are split[,] that are split in Bibb and Muscogee in the Second?

A. That's correct.

* * *

Q. Were you aware of whether or not the county governments of Bibb and Muscogee had passed resolutions requesting that those counties remain split in any redistricting plan?

A. Yes.

Q. Did you take that into consideration in splitting those counties is [*sic*] ACUL1A?

A. That was a factor.

Q. Are the splits in ACLU1A the same as the splits in the existing plan?

A. No, they are not.

Q. In what ways are they different and why they are different?

A. I have described the way in which the Second enters Bibb County and the way Bibb County is split in the current plan. The split in ACLU1A in some ways resembles that split. In ACLU1A Bibb County is split

between the First and Third and in ACLU1A the same is true for Muscogee County.

Q. Were these splits based, in any way, on race?

A. No, they were not.

Q. What were the other factors?

A. It was the wish of the county commissioners to have more than one congressional representative. The second was the State had historically linked rural and urban areas together to form congressional districts.

Q. Have we discussed the [*sic*] all of the changes you have made to the Second District?

A. Not in detail, but we have covered them.

Q. What, if any, changes were made to the Third district in ACLU1A compared to the existing plan?

A. The changes to the Third District basically resulted from the changes made in the Second and Eleventh Districts. Tolbot was moved to the Third District having previously been in the Second and Baldwin County was included in the Third District. The other principal change that occurred had to do with Clayton County.

I have mentioned that we were concerned about having taken a portion out of DeKalb out of the Fifth District. To compensate for voters, who were predominantly black, who were taken out of the Fifth District to make the county line the dividing line between the Fifth and Eleventh. When those voters were taken out of the DeKalb County portion of the Fifth we basically extended the Clayton County portion of the Fifth District. So we extended the Clayton County portion of the Fifth District. So there were additional voters taken out of the Third.

Q. There are 11 intact counties in the Third; is that right?

A. Yes.

Q. I won't ask you to repeat all of your testimony, but did you keep those counties intact for the same reasons you did in the other districts?

A. Yes.

Q. As to the Third District, as a whole, was race a predominanting [*sic*] factor in the construction of the plan?

A. No, race was not a predominanting [*sic*] factor in the construction of the Third District. Nor was it a predominant factor in the construction of this plan.

* * *

Q. Will you explain what, if any, changes were made to the Fourth District and tell us why they were made?

A. The changes in the Fourth District were minimal. Primarily it involved some precinct changes in Gwinnette County between the Fourth and Tenth Districts and they were made to compensate for shifts in population that occurred in the Tenth once we corrected that constitutional defect in Richmond County and put Wilkes County back as a whole country.

Q. Was the purpose for those changes predominantly based on race?

A. No. The purpose was predominantly one person one vote.

Q. What changes did you make in the Fifth and why?

A. There was an additional change in the Fourth, which was in DeKalb County in the southern most part

in the City of Decatur there were a couple of precinct chages. That was done to balance out the population.

Q. What changes were made in Fifth and why?

A. The most striking change was to eliminate this extension of the Fifth into DeKalb County and to make the DeKalb Fulton County line the dividing line between the two districts and that took some population out of the Fifth which was compensated for with the extension into Clayton County.

In addition to that the northern part of the Fifth District was enhanced by removing some of the border to [*sic*] in the most northern part of Fulton County.

Q. Was the predominant purpose of those changes based on race in those counties?

A. No, those chages were made to balance out population. A very important goal was compliance with the Voting Rights Act to make sure that the redesigning of the Fifth District did offer African America[n] voters a full opportunity to elect the candidate of their choice.

Q. What was the racial composition of the changes that were made? In this area of DeKalb, for example, was that predominantly black?

A. Yes, it was. The area of DeKalb that was removed from the Fifth that portion of Atlanta on both sides of the county line the population is pretty solidly black.

Q. And the area of Clayton County that you put in was it substantially of the same racial composition of the area that you took out?

A. A substantial portion of the popualtion was black, but there were also some whites who tended to vote Democratic.

Q. So was it a non-racial change or did you exclude more blacks than you brought in by making the DeKalb, Clayton County exchange?

A. The portion of the Fifth District that was taken out of DeKalb County to make the dividing line the county line that portion was, I would say, about 95 percent black. The portion of Clayton County that was included in the Fifth was not as heavily black as it was in the DeKalb County portion.

Q. What was the reason or purpose for making that exchange?

A. To prevent retrogression.

Q. Look at the Sixth Congressional District. What changes did you make there?

A. The changes there were very minor. There were a couple of precinct chanes in Gwinnette County similar to what I have described in the Fourth and the Tenth. I believe there were two precinct changes in Cobb County in the area where the Seventh is next to the Sixth.

Q. So there were no counties added or taken out?

A. That's right.

Q. What was the purpose of the changes in the precinct?

A. That was to comply with one person one vote. In addition this option was an attempt to the [*sic*] correct the constitutional defect in the Eleventh and the assumed constitutional defect in the Second and to preserve the remaining districts, as much possible, intact.

Q. What about the Seventh, what changes were made there?

A. The principal change would be the inclusion of Meriwether County into the Seventh and that was done for the purpose one person one vote after Meriwether was removed from the Second because it had been determined by the panel of judges as being unacceptable in terms of its appearance.

Q. No other counties were added or deleted?

A. No.

Q. Cobb is split in the Seventh in your version?

A. Yes, in pretty much the same way it was.

Q. Why did you retain that split?

A. My instructions from you in this option was to present to the Court a plan which corrected the constitutional defect in the Eleventh and the assumed constitutional defect in the Second and to keep the remaining districts unchanged as much possible.

Q. Had you corrected the split in Cobb would be [*sic*] you have had to make other changes to compensate for the addition or loss of population?

A. Yes, sir.

Q. Would that have entailed significant changes?

A. Cobb County is part of metro Atlanta so the population there, like in Fulton, DeKalb and Gwinnette, is very dense. So when you move a precinct in Cobb County it is like moving a rural county.

Q. What changes did you make in the Eighth District?

A. In the Eighth district the changes were primarily made to compensate for the changes I described in the Second and the changes that were made in the First and

the changes that were made in the Eleventh. So I included the counties Montgomery, Toombs and Tattnall into the Eighth District and they were previously in the First. I excluded Clinch County as I mentioned previously and reunited Houston as one county and then the extension into Bibb County does not exist.

Q. Now, you excluded Clinch was that to comply with one person one vote?

A. Yes.

Q. Were the changes you made in the Eighth based on race?

A. No. One person one vote was the major factor. The other predominant factor, in terms of the changes in the Eighth, was to keep intact political subdivisions. Because the string of counties in the Eighth that shared their border with the Second, as mentioned earlier there were a number of counties that were previously split in the current plan, all of those counties were reunited.

Q. Did you make any changes in the Ninth District?

A. No, there were no changes in the Ninth.

Q. So the Ninth remains as it currently is?

A. That's correct. It stays as it currently is.

Q. The last district is the Tenth what changes did you make there?

A. Wilkes County is a whole county in the Tenth resulting from eliminating this split in the Eleventh District. In addition in Richmond County I took in a larger portion of the white population in Richmond County and moved it from the Tenth and added it to the Eleventh. Those were the principal changes. As I mentioned earlier there were also a couple of precinct changes in Gwinnette County.

Q. What was the purpose of those changes in the Tenth?

A. It was to balance out population.

Q. Were any of the changes made in the Tenth based on race?

A. No.

Q. Is there any single rural county that is split in ACLU1A?

A. No. In drawing ACLU1A we were very particular in reuniting all of the rural counties which are currently split in the existing congressional districting plan and which were split in some of the earlier versions of plans we had developed. That was done primarily because there was much talk about the splitting of rural counties as being sort of a litmus test and we have eliminated all rural county splits. The only counties that are split are in this plan are the larger more densely populated metropolitan areas of the State.

Q. Would it be possible to draw other plans that were in the so called least disruptive plan category or is this the only version you could possibly do?

A. Could you restate your question?

Q. Is it possible to draw other plans in the so called category of least disruptive or least change, but cure the constitutional defects in the existing plan or is this the only possible plan?

A. Yes, sir, I believe it is possible to draw other plans. I have prepared an option which leaves Richmond County completely out of the Eleventh District. So it depends on what your motivation is.

In the Legislature there was a feeling that some peo-

ple would not pass a plan if Richmond County were split or was part of the Eleventh. Depending on your goal it's possible to prepare other options.

Part of my responsibility in working with the special session was to review the plans of others for fairness and I reviewed the Amicus Plan and the version before the one called Amicus Plan. That plan came pretty close to what I would call the least change plan, but the Eleventh District was not in Richmond County.

Q. Did Mr. Hill prepare this plan ACLU1A?

A. No, I supervised its preparation and I was surprise[d] when I heard that here today. He did not prepare that plan.

Q. I'm not going to ask you ~~in~~ detail about the other plans, but I think it would be helpful for you to tell us briefly what you attempted to do when you prepared the first three plans that were filed with your orininal declaration and the supplemental declaration that were received in evidence.

A. Those plans were developed either shortly before the special session convened or during the special session. The three plans you mentioned were developed with the express purpose of presenting options before the legislative black caucus. The goal was to develop a plan that could achieve the number of votes necessary to pass both houses. In preparing those plans the overriding goal was to show that it was possible to be fair to both black and white voters in the s[t]ate and to comply with the Court's directive in Miller v Johnson.

In that regard the first plan had some county splits that were eliminated and the goal was eliminating those county splits. As we moved from the first to the third plan our goal was to remove all of the splits in the rural

counties and to also develop a plan that would basically serve as a basis for the formation of a coalition between black and white Democrats and be able to pass both houses.

By the time we got to the third plan our goal was to eliminate all splits in rural counties and to redraw all of areas of [*sic*] in the state outside of the Fifth, Eleventh and the Second pretty much the way white Democrats wanted them drawn with the hope that it would allow white and black Democrats to form a coalition and get a plan passed by both houses.

For example in that plan the Seventh District was drawn exactly as the Speaker wanted it. The First is draw[n] exactly the way the Chairman of the House Reapportionment Committee wanted it. The Ninth District was d[r]awn close to the way the Lieutenant Governor wanted it drawn.

Q. Was that plan endorsed by either house?

A. The plan which passed in the House was derived from that plan.

Q. Which plan?

A. The third one. The plan which passed the House was derived from the plan that I just described and the principal difference was in the Eleventh District. The Eleventh District did not encompass all of the rural counties that that plan encompassed. We stopped in Washington County and did not go all the way in. Other than that the plan that passed in the House is almost identical to the plan I described here.

MR. McDONALD: Thank you, very much.

* * * * *

CROSS-EXAMINATION

BY MR. PARKS:

Q. Mr. Carter, with respect to the ACLU1A plan is it your position that the configuration of the Eleventh District in that plan is mandated by the Voting Rights Act?

A. My position is that ACLU1A was drawn in response to a request I received from Mr. McDonald to prepare a least change plan.

Q. I understand that, but is it your position that in the racial consideration that you testified to, leaving aside whether is was a predominant, intermediate or insignificant factor, the racial considerations do you feel they were mandated by the Voting Rights Act or are just a product of your attempt to draw a minimally disruptive plan?

A. I believe the word mandated is one I'm not sure of.

Q. Required?

A. I will answer that in the way I understand it I'm not sure it's mandated. There are lots of differences of opinion in the aftermath of Miller v Johnson and Shaw v Reno as to how you balance the interest of the requirements of the Voting Rights Act with what is now the law.

* * * * *

MR. PARKS: I have not heard an answer.

A. Essentially I believe the jurisdiction between state governments and voting right advocates are confused on that question. I sat through a number of conferences. I sat through the special session of the Legislature. I have talked to a number of people and find that there is a general disagreement as to how you balance the interests of the Voting Rights Act against the descision [*sic*] of this Court and the Supreme Court in Johnson v. Miller. I do believe as a result of Thronberg v. Jingles a state has an obligation to draw a district that is fair to minority voters if the geographical distribution of voters is such that such a district can be drawn. I believe the Eleventh District is such a district that can be drawn because I believe in the past the state has drawn districts just as vast. Does that answer your question?

Q. I don't know.

A. It's more complicated than that. I don't know.

Q. But you can't say for sure whether it is or not?

A. I have answered your question, basically in the way I just did.

Q. I am not suggesting there is a definitive answer, but I didn't hear a definitive answer.

A. I will tell you what it depends on is geographic compactness. Geographic compactness is a very subjective term. What is geographically compact to me may not be geographically compact to you. That's why that question is so difficult to answer.

* * * * *

Q. Now, if you have the same difficulty as you had

with in the question I asked you about the ACLU minimal disruption plan you can just say I have the same difficulty without going into that long response.

In your opinion is the Eleventh Congressional District, as configured in this Amicus R Plan, required by the Voting Rights Act?

A. The same difficulty.

* * * * *

Q. Mr. Carter, you told any number of people during that session that to be politically acceptable to the black caucus there had be a second congressional district that was majority black?

A. Yes, sir.

Q. Regardless of whether it was required by the Voting Rights Act or not for the black caucus to support any plan it had to include a second majority black district?

A. I do not recall making any reference to the Voting Rights Act.

Q. But in you own mind that was the reality?

A. Yes.

* * * * *

Q. That's why I asked you the question because my reading of the position of the Abrams Intervenors, as you have described it, is there isn't a single plan ACLU, black caucus or your organization that you can say under oath is required by the Voting Rights Act in terms of a second minority, majority district?

A. I believe that we are in gray area of the law. It used to be clear a couple of years ago and it is not as clear now as it used to be.

* * * * *

Q. But you would agree that there could still be clear cases wherein a minority district would be required by the Voting Rights Act?

A. I believe that's true.

* * * * *

Q. You don't make the distinction that the district was not reflective of a true community of interest. You are saying it isn't as bad off as some others in the past and therefore why not?

A. Repeat that, please.

Q. You are not saying the Eleventh District is reflective of any real true community of interest. Instead you are saying it has a sufficient degree of geographic compactness to merit consideration?

A. I haven't done an analysis for this presentation here today.

* * * * *

REDIRECT EXAMINATION

By MR. McDONALD:

Q. Mr. Carter, let me direct your attention to the 1972 Congressional redistricting plan to Congressional District One?

A. Yes.

Q. Can you tell us whether in this district you have any counties that strung together in a single file marching from the south up to the north?

A. Yes, that was one of the districts that struck me when I was struggling with this plan in terms of drawing it. One of the first things that struck me was the State's history in drawing these type districts. There you have a district that runs from the Florida border up to Augusta.

Q. Is that a land bridge?

A. The term land bridge is not one that I have embraced. I have never use that on my own.

Q. Let me hand you this map and ask you to identify it.

MR. McDONALD: I would like to [have] that marked as Abrams Intervenors Exhibit 37.

Q. Handing you what has now been marked as Abrams Intervenors number 37, can you identify that for me?

A. It looks like the plan which passed in the Georgia House.

Q. Judge Edenfield asked the question earlier whether or not it is possible to construct a plan that contained two minority majority districts that didn't have a wall across the state. Can you tell me whether or not that is the case with Abrams Intervenors number 37?

A. Yes, sir. You can see it again in the Eleventh district which does not stretch across the state. It extends from DeKalb to Jefferson County. So there are still a couple of counties between the Eleventh District and the state border. The question of minority majority is really tricky. If you look at black voting age population it is only 50.41 percent. It is a very integrated district.

Q. What is the total minority population in this district?

A. The district is 53.37 percent black.

N. ARGUMENT: DAVID WALBERT

[Excerpts from Hearing Testimony, 10/30/95-10/31/95 Tr. p. 378, lines 18-25; p. 379, lines 9-13 and 21-23; p. 380, lines 2-24; p. 384, lines 2-4.

Section Five doesn't apply to this Court. If this Court draws a plan Section Five doesn't put a bench mark on this Court and this panel of three judges. There was a Section Five discussion earlier with Mr. Brumby about whether if the Speaker submitted a plan is that a Section Five covered plan. He has authority in his brief suggesting that may be.

* * *

Be that as it may the bench mark for Section Five if this were a legislative plan, and I think the Court should put itself in the shoes of the legislature when it is drawing a plan, the bench mark here is clearly the '82 plan.

* * *

It is our position that the '82 plan, being the last constitutional plan, has to be the bench mark.

MR. WALBERT: Yes, your Honor, that's definitely our position.

To address the Section Two question. It is pretty clear that this Court in devising a remedy has to make a determination as [to] whether Section Two does or does not apply to any plan that is adopted by this Court. We have a pretty strong opinion on this. I guess the first thing I will say is we take very strong issue with the Justice Department's view that they advocate that Section Two is required. I will say this with all due respect to the Justice Department lawyers, but what they are doing here is exactly what they were doing in 1991. The old game, if you will, that this Court criticized

and which the Supreme Court criticized, the old game was if you didn't do it disprove why you didn't do it and since you can't disprove why you didn't do it intentional and purposeful were applied. The old game was intent and purposeful were applied because of your inability to disprove that you didn't go to Chatham because of race or didn't go to in Richmond County because of race. It all boiled down to an inability to disprove.

* * * * *

Section Two we very much disagree that Section Two mandates there be two black members majority districts under its mandates.

O. TESTIMONY OF LINDA MEGGERS

[Excerpts from Hearing Testimony, 10/30/95-10/31/95
Tr. p. 430, line 3-p. 434, line 8, p. 438, lines 12-17]

DIRECT EXAMINATION

BY MR. PARKS:

Q. Were you involved during the special session with regard to attempting to redistrict the State of Georgia to correct the unconstitutionality that had been found within the existing redistricting plan?

A. Yes, sir.

Q. During the course of that involvement did you make an effort to construct a second minority majority district that was consistent with your reading of Miller versus Johnson and the Voting Rights Act?

A. Yes, sir. I started out from two different angles. What I did is I sat down by myself after the decision came out and before anyone could talk to me and I read it three times to see how I understood it. I know I'm not an attorney and I can't quote the law of the case, but I feel I have to understand it before I can help the people I work with. It seemed to me there was a lot of talking about the only thing that was unconstitutional about the Eleventh District was the fact it had an arm going through Screven and down to Chatham and that's all we needed to do to fix it. As I looked at it and as I understood the Court decision from both this Court and the Supreme Court the idea that I think came out of the Supreme Court decision was why did we have [to] draw the Eleventh District like we did in 1991?

To be honest with you I was really partly at fault for drawing it like we did in 1991. In my understanding of it I thought the Department of Justice was going to make

us do. Prior to the work in 1991 there had been an understanding arrived at by the leadership in the legislature with the black caucus that we are going to draw a second minority district and you can have it. I think at that time we understood that to mean under our normal interpretations of the Voting Rights Act meaning compactness, contiguous and community of interest.

I looked at that in two different ways to draw that. One of the major efforts I made by myself at that time was to look over to east central Georgia. If you will look at the race map there is a heavy concentration up here and I think we talked about how all that got added to DeKalb county to begin with. I looked into the metro area and none of [the] ways I drew ever showed a total of a 50 percent minority population. At that time we were talking about an effective black district being 60 percent. At the first public hearing we were presented by the head of the Republican party a map that literally, he said, had been faxed to him about an hour before that. That plan drew it from south DeKalb over to Augusta and then to Macon. The initial response in our office was that's ridiculous. We don't have draw that do we? I was the one who said if it was there we have to draw it. It was said that it doesn't make any sense and I said maybe not, but I think we may get in trouble with the Justice Department if we don't draw the State of Georgia like that and I think that was probably the main reason they went in that direction.

After this decision in Miller v Johnson came out I sat down and I read that again and I said why would draw it that way? If you are going to look at motivation what other reason would you ever have for coming out of south DeKalb like that? What other reason would you have for putting Burke County with south DeKalb? What would Johnson County ever have in common with

south DeKalb? So even looking at cleaning up the Eleventh from the way we drew it in 1991 I didn't think satisfied the constitutional requirements. I needed to look at another way to create a second minority majority district.

All of us were aware that Speaker Murphy, even after the court decision, said that he thought you ought to have two minority majority seats in Georgia. If I look at the guidelines and I hear people say the Supreme Court left all of this confusion. I don't think they left that much confusion in my mind. They told me that if black populations were compact, contiguous and had a community of interest they should be kept together. I have always understood that and that didn't bother me. I thought that was a traditional interpretation of the Voting Rights Act. They also said that you use traditional redistricting principles. I had been working on this since 1971 and I thought I had a pretty good handle on what traditional redistricting principles were in Georgia.

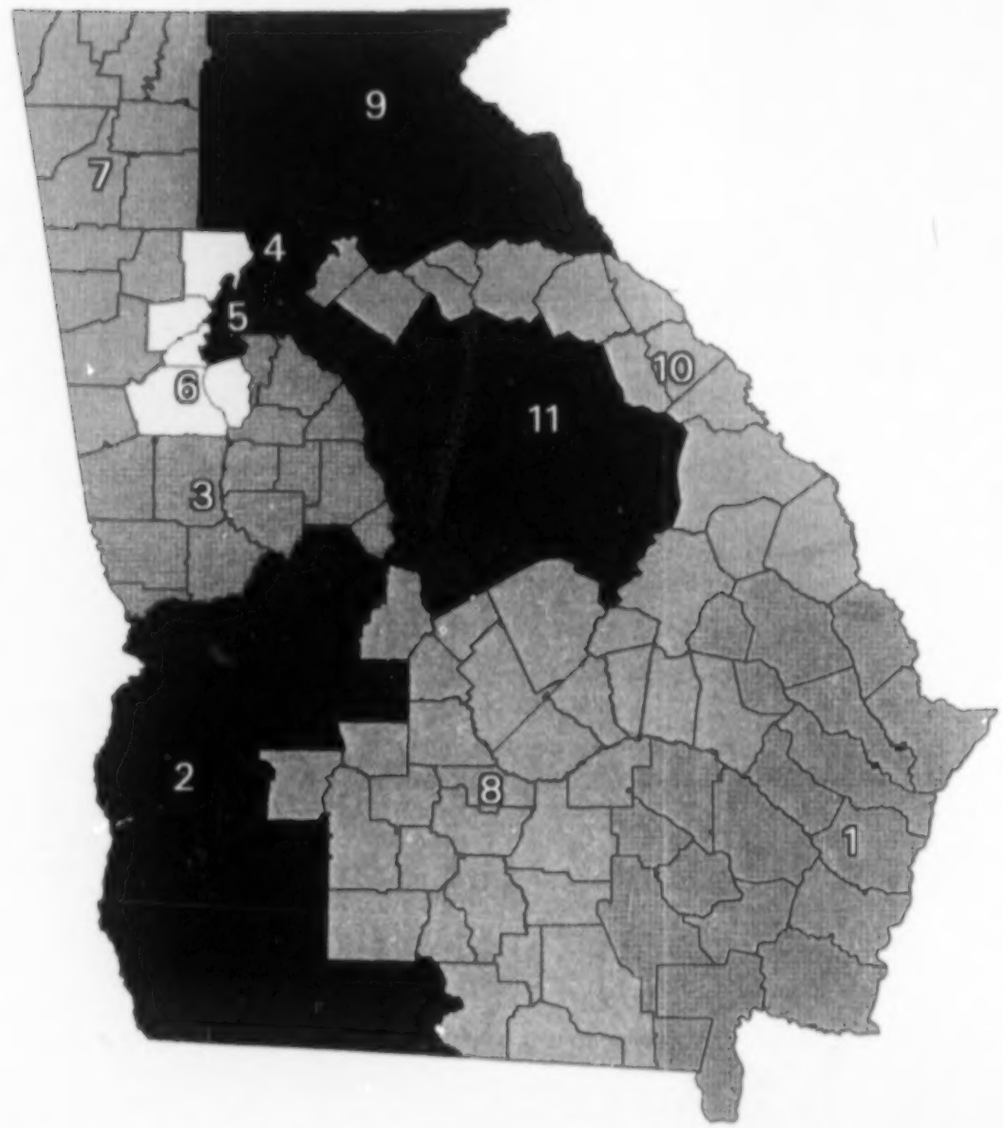
I looked at that and I looked at the race map because I do think that you take race into consideration. They are 27 percent of the population and if we are going to look at distributing political power which I think that's what redistricting is all about. The concentrations that you have are still in the metro Atlanta area. That is the one concentration you have if you are looking at compactness, contiguity of population and community of interest, you have urban areas, you have areas of interest. Beyond the color of skin I think there is probably other interests that blacks have in common, but putting that aside there should be areas of interests. That was the place where I started, to be honest with you.

* * *

Q. Consistent with your understanding of the decision in Miller v Johnson and the Voting Rights Act a second minority majority district was not, at least in your opinion, possible?

A. Not one that said 50 percent on the page in 1990, no, sir, it was not.

1995 House-Passed Plan
(MSLSS)



Library: Georgia

Plan: lit16620124hse

Districts

1
2
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11

County Boundaries

Scale in Miles

0 0.5 1.0 7.5 15

Prepared by:
United States Department of Justice
Washington, D.C., 20530

June 19, 1996

User: Temporary Account Date: 06/20/96

Room: 941 Time: 9:32 AM

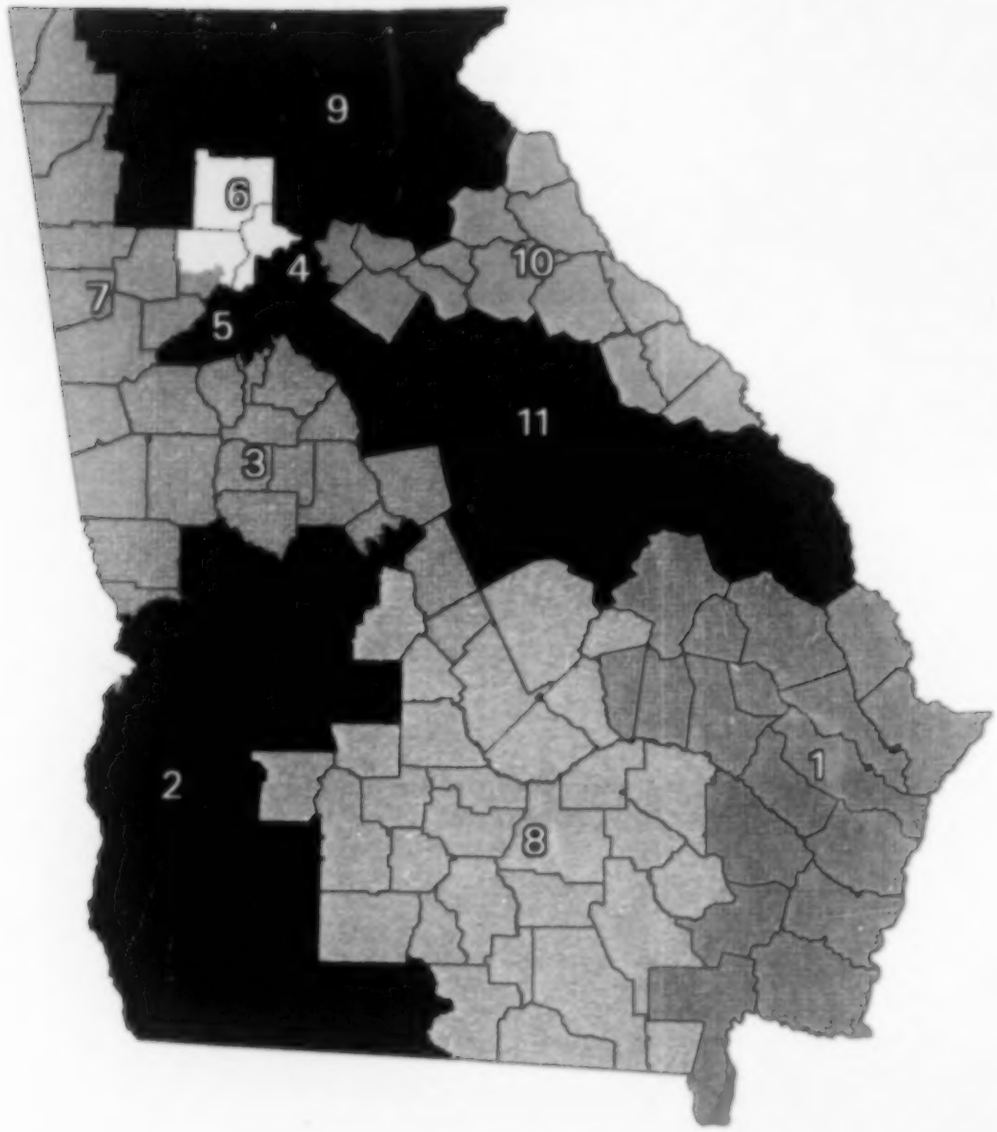
Plan: LIT16620124HSE Report: housepassed. rep

Population Summary Report Plan MSLSS
(House Passed)

Dist :	TOTAL	DEVIATION	DEV%	WHITE%	BLACK%
1 :	588541	-388	-0.07	67.58	30.55
2 :	587583	-1346	-0.23	59.54	39.21
3 :	589276	347	0.06	73.09	24.80
4 :	589277	348	0.06	55.02	40.36
5 :	590666	1737	0.29	39.57	58.01
6 :	589268	339	0.06	91.36	5.80
7 :	588249	-500	-0.08	85.15	13.70
8 :	587912	-1017	-0.17	67.92	31.07
9 :	589420	491	0.08	94.68	3.65
10 :	588495	-434	-0.07	85.48	12.69
11 :	589349	420	0.07	61.78	36.67

Total Population	:	6478216
Ideal Population	:	588929
Mean Deviation is	:	0
Mean Percent Deviation is	:	0
Largest Positive Deviation is	:	1737
Largest Negative Deviation is	:	-1346
Overall Range in Deviation is	:	3083
Overall Range in Deviation% is	:	0.52

Lewis/Gingrich Plan
(AMICUSR)



Library: Georgia

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Prepared by:
United States Department of Justice
Washington, D.C. 20530

June 25, 1996

User: Temporary Account Date: 06/25/96

Room: 941 Time: 9:30 AM

Plan: LIT16620124AMICUSR Report: popsum. rep

Population Summary Report Plan AMICUSR

Dist :	TOTAL	DEVIATION	DEV%	WHITE%	BLACK%
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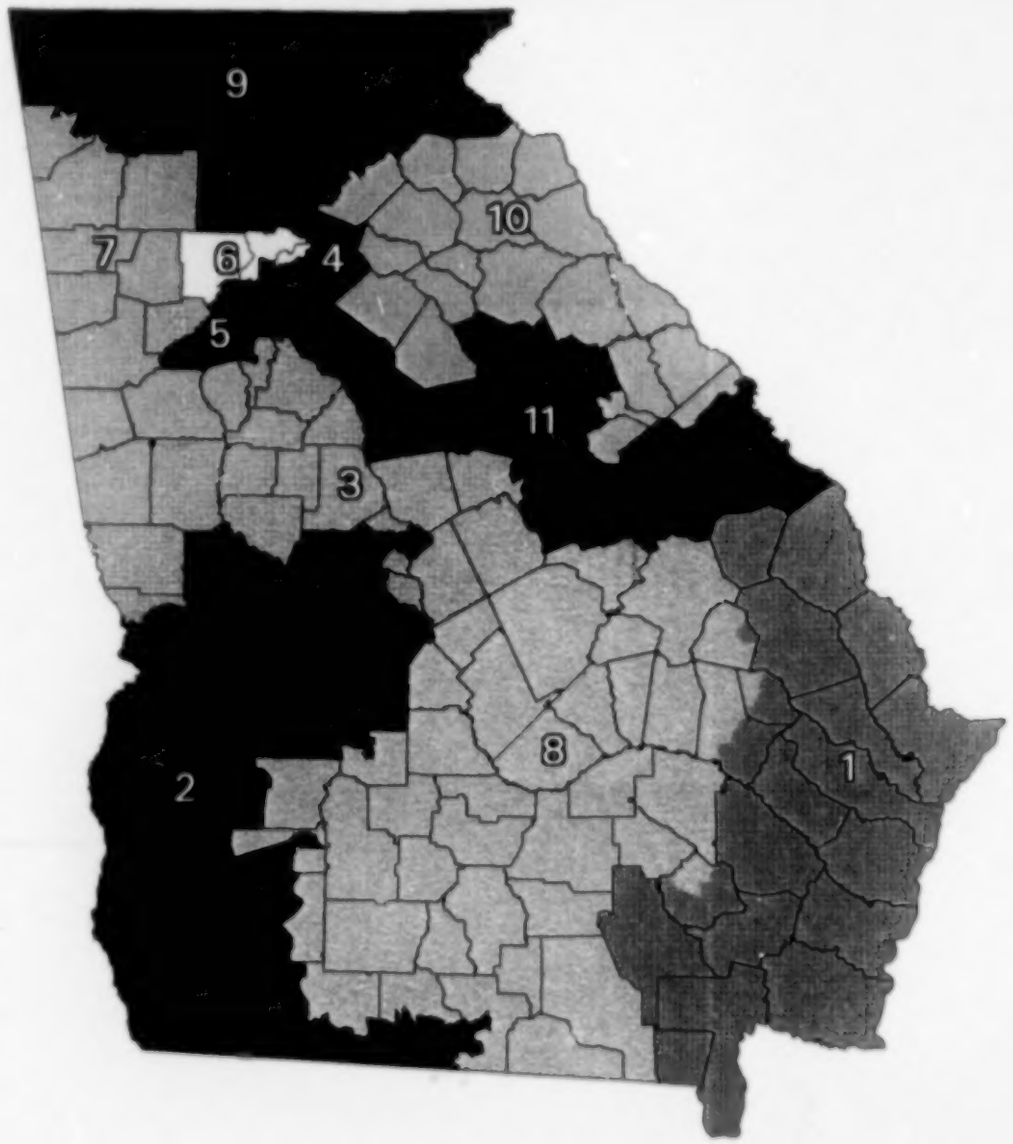
2 :	591188	2259	0.38	49.09	49.41
3 :	588137	-792	-0.13	78.74	20.03
4 :	583497	-5432	-0.92	85.03	9.72
5 :	586998	-1931	-0.33	40.01	57.33
6 :	592594	3665	0.62	91.54	6.03
7 :	594440	5511	0.94	87.06	11.81
8 :	584623	-4306	-0.73	72.07	26.74
9 :	590603	1674	0.28	93.56	4.76
10 :	589636	707	0.12	72.04	25.86
11 :	587171	-1758	-0.30	44.05	54.65

Total Population	:	6478216
Ideal Population	:	588929
Mean Deviation is	:	0
Mean Percent Deviation is	:	0
Largest Positive Deviation is	:	5511
Largest Negative Deviation is	:	-5432
Overall Range in Deviation is	:	10943
Overall Range in Deviation% is	:	1.86

Abrams Plan A
(SRC/ACLU Plan A)



Library: Georgia

Plan: lit16620124abramsa

DISTRICTS

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11

County Boundaries

Scale in Miles

0 62.5 125 250 500

Prepared by:
United States Department of Justice
Washington, D.C., 20530

June 22, 1996

User: Temporary Account Date: 06/22/96

Room: 941 Time: 4:29 PM

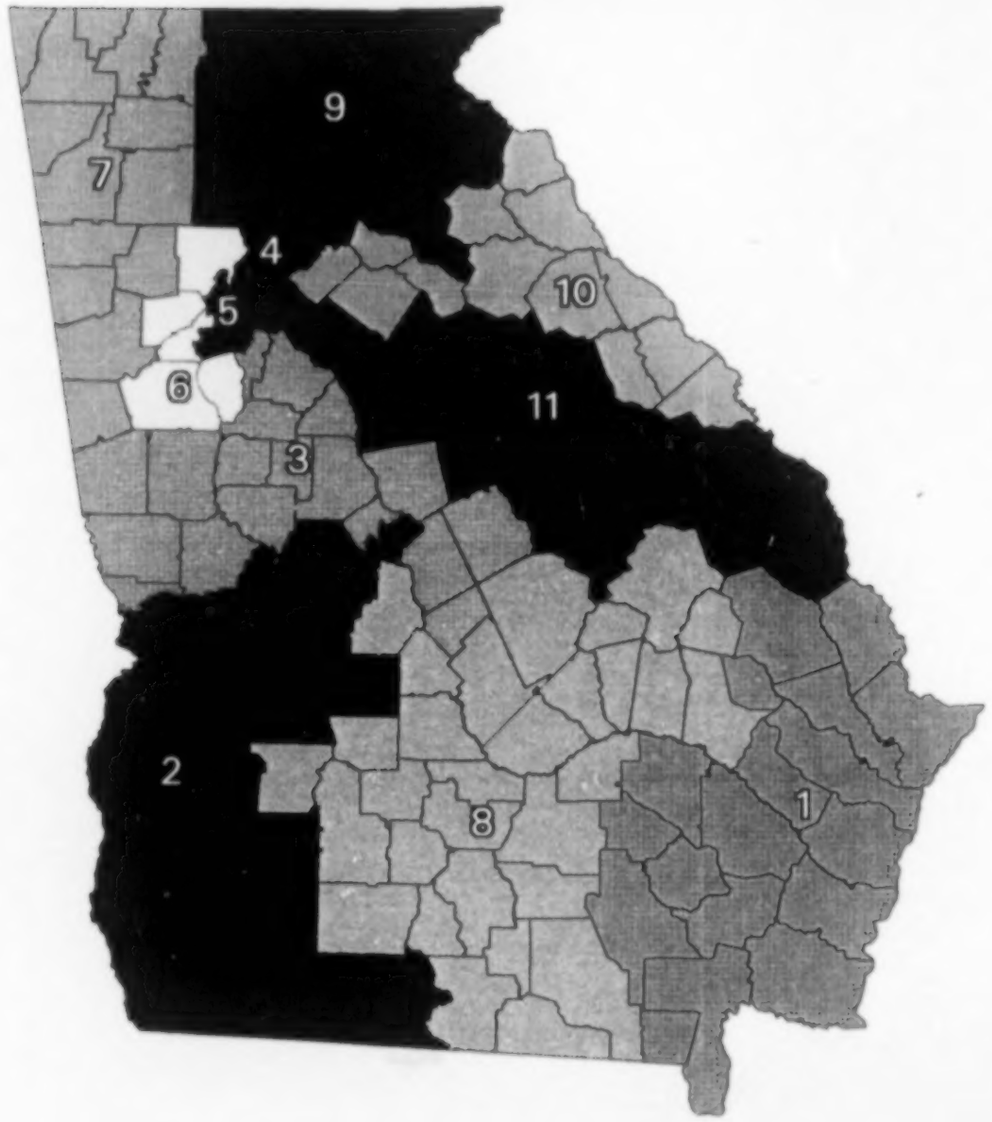
Plan: LIT16620124ABRAMSA Report: popsum. rep

Population Summary Report Abrams Plan A

Dist :	TOTAL	DEVIATION	DEV%	WHITE%	BLACK%
1 :	588455	-474	-0.08	67.74	30.56
2 :	588499	-430	-0.07	44.11	54.45
3 :	588995	66	0.01	77.39	21.09
4 :	590178	1249	0.21	86.38	8.67
5 :	588878	-51	-0.01	40.84	56.70
6 :	588851	-78	-0.01	89.34	7.80
7 :	588720	-209	-0.04	85.96	13.07
8 :	588846	-83	-0.01	73.98	24.81
9 :	589360	431	0.07	96.38	2.48
10 :	588869	-60	-0.01	77.25	20.49
11 :	588565	-364	-0.06	41.65	56.56

Total Population	:	6478216
Ideal Population	:	588929
Mean Deviation is	:	0
Mean Percent Deviation is	:	0
Largest Positive Deviation is	:	1249
Largest Negative Deviation is	:	-474
Overall Range in Deviation is	:	1723
Overall Range in Deviation% is	:	0.29

Abrams Plan C
(SRC/ACLU Plan C)



Library: Georgia

Plan: lit16620124abramsc

DISTRICTS

1
2
3
4
5
6
7
8
9
10
11

County Boundaries

N
W
E
S

Scale in Miles
0 5 10 20 30

Prepared by:
United States Department of Justice
Washington, D.C., 20530

June 19, 1996

User: Temporary Account Date: 06/20/96

Room: 941 Time: 8:54 AM

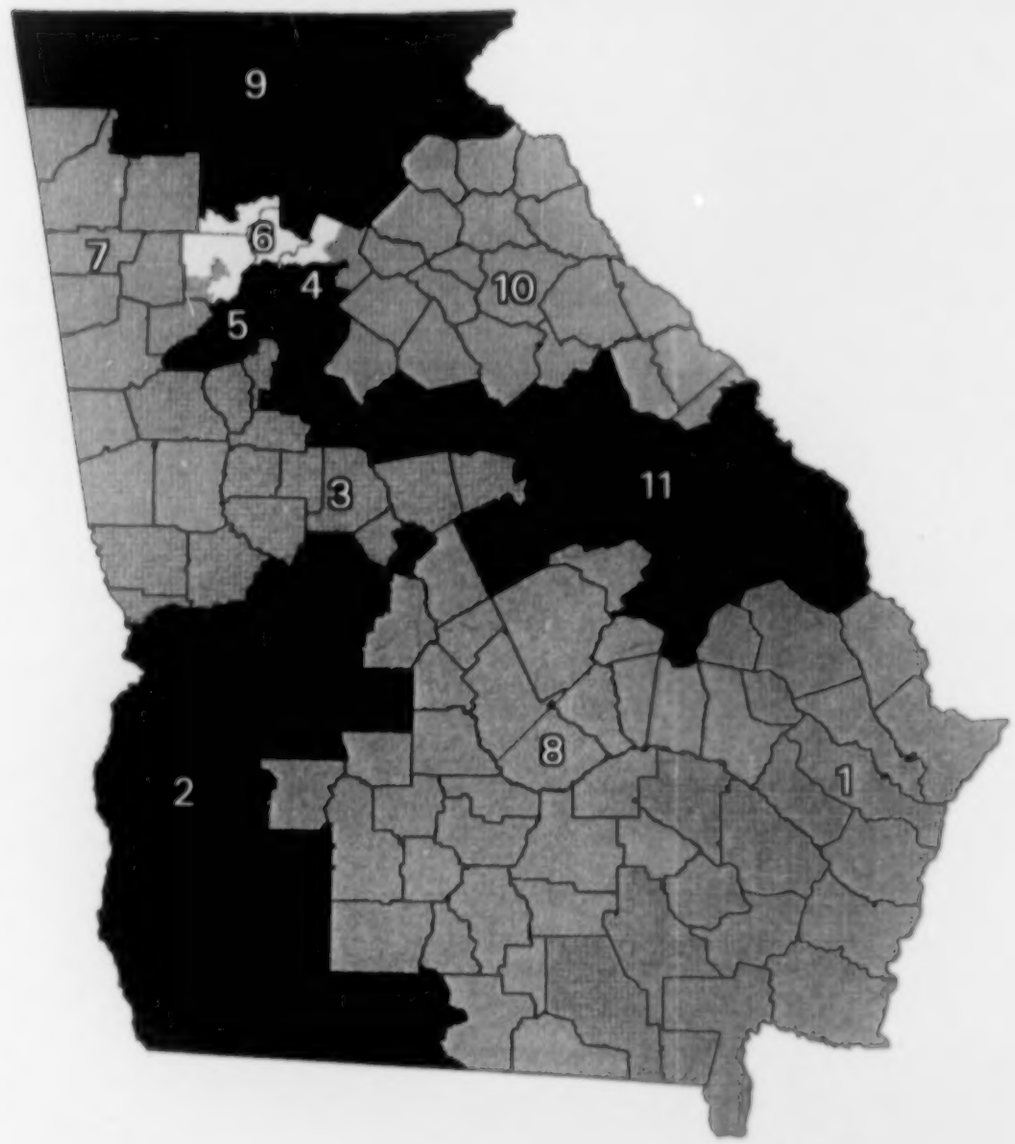
Plan: LIT16620124ABRAMSC Report: abramsc2. rep

Population Summary Report ABRAMS Plan C

Dist :	TOTAL	DEVIATION	DEV%	WHITE%	BLACK%
1 :	586191	-2737	-0.46	68.73	29.57
2 :	590278	1350	0.23	48.71	49.80
3 :	589649	721	0.12	76.60	22.06
4 :	590029	1101	0.19	85.20	9.49
5 :	590261	1333	0.23	40.29	57.09
6 :	590284	1356	0.23	88.42	9.44
7 :	584478	-4450	-0.76	91.24	7.75
8 :	587761	-1167	-0.20	70.94	27.68
9 :	588747	-181	-0.03	90.41	7.69
10 :	590248	1320	0.22	75.96	22.10
11 :	590290	1362	0.23	44.86	53.66

Total Population	:	6478216
Ideal Population	:	588929
Mean Deviation is	:	1
Mean Percent Deviation is	:	0
Largest Positive Deviation is	:	1362
Largest Negative Deviation is	:	-4450
Overall Range in Deviation is	:	5812
Overall Range in Deviation% is	:	0.99

Abrams Plan ACLU1A



Library: Georgia

Plan: lit16620124aclu1a

Scale in Miles

0 6.5 13 20 26

Prepared by:
United States Department of Justice
Washington, D.C., 20530

June 23, 1996

User: Temporary Account Date: 06/23/96

Room: 941 Time: 12:35 PM

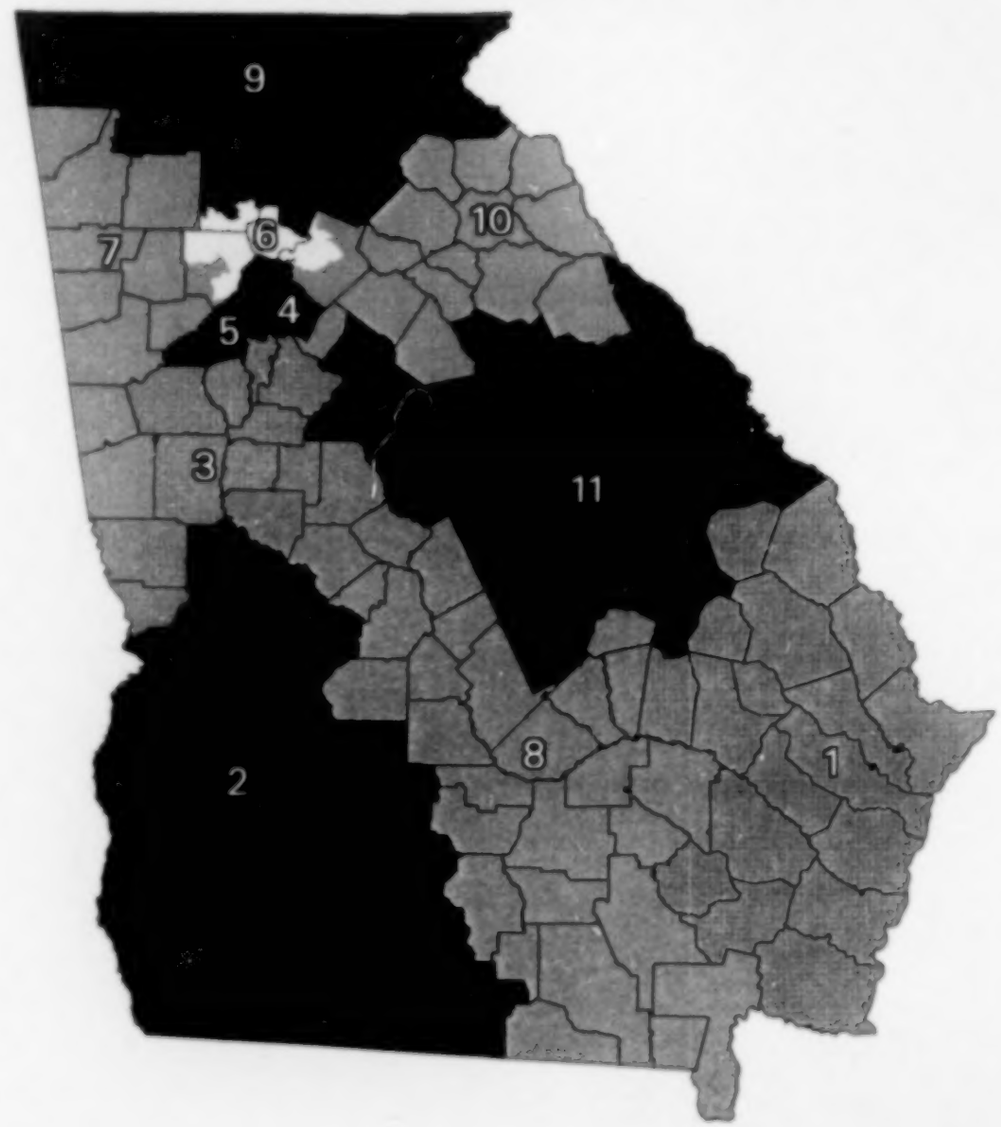
Plan: LIT16620124ACLUIA Report: popsum. rep

Population Summary Report Abrams Plan ACLU1A

Dist :	TOTAL	DEVIATION	DEV%	WHITE%	BLACK%
1 :	590529	1600	0.27	68.51	29.79
2 :	589281	352	0.06	48.74	49.75
3 :	590244	1315	0.22	78.26	20.11
4 :	585946	-2983	-0.51	84.80	10.19
5 :	590241	1312	0.22	38.60	58.98
6 :	589137	208	0.04	91.36	5.97
7 :	590462	1533	0.26	84.53	14.36
8 :	591442	2513	0.43	71.06	27.58
9 :	586222	-2707	-0.46	94.65	3.67
10 :	586262	-2667	-0.45	78.69	19.66
11 :	588450	-479	-0.08	42.14	56.27

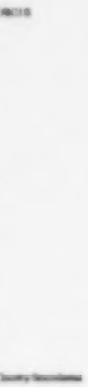
Total Population	:	6478216
Ideal Population	:	588929
Mean Deviation is	:	0
Mean Percent Deviation is	:	0
Largest Positive Deviation is	:	2513
Largest Negative Deviation is	:	-2983
Overall Range in Deviation is	:	5496
Overall Range in Deviation% is	:	0.94

Plaintiffs' Remedy 4



Library: Georgia

Plan: lit16620124remedy4



Scale in Miles

0 6.5 13 26 39

Prepared by:
United States Department of Justice
Washington, D.C., 20530

June 22, 1998

User: Temporary Account Date: 06/20/96

Room: 941 Time: 9:41 AM

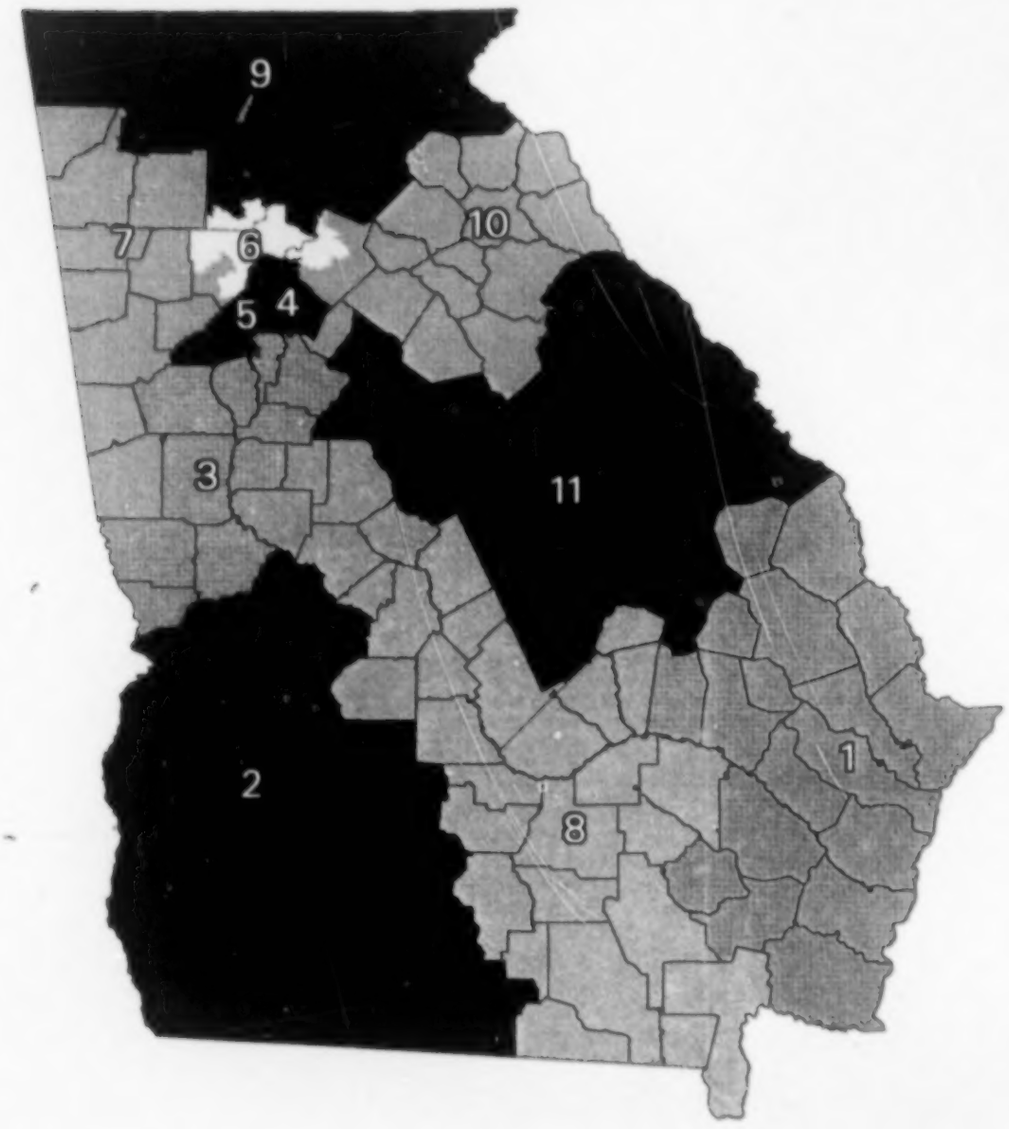
Plan: LIT16620124REMEDY4 Report: popsum. rep

Population Summary Report Plaintiffs' Remedy 4

Dist :	TOTAL	DEVIATION	DEV%	WHITE%	BLACK%
1 :	588541	-388	-0.07	67.58	30.55
2 :	594107	5178	0.88	59.29	39.47
3 :	589774	845	0.14	73.61	24.18
4 :	589277	348	0.06	55.02	40.36
5 :	583644	-5285	-0.90	39.03	58.62
6 :	587419	-1510	-0.26	91.34	5.81
7 :	593007	4078	0.69	85.24	13.61
8 :	587912	-1017	-0.17	67.92	31.07
9 :	589420	491	0.08	94.68	3.65
10 :	584570	-4359	-0.74	85.57	12.60
11 :	590545	1616	0.27	61.69	36.77

Total Population	:	6478216
Ideal Population	:	588929
Mean Deviation is	:	0
Mean Percent Deviation is	:	0
Largest Positive Deviation is	:	5178
Largest Negative Deviation is	:	-5285
Overall Range in Deviation is	:	10463
Overall Range in Deviation% is	:	1.78

Plaintiffs' Remedy 4X



Library: Georgia

Plan: lit16620124new4x

Prepared by:
United States Department of Justice
Washington, D.C., 20530

June 19, 1996

User: Temporary Account Date: 06/20/96

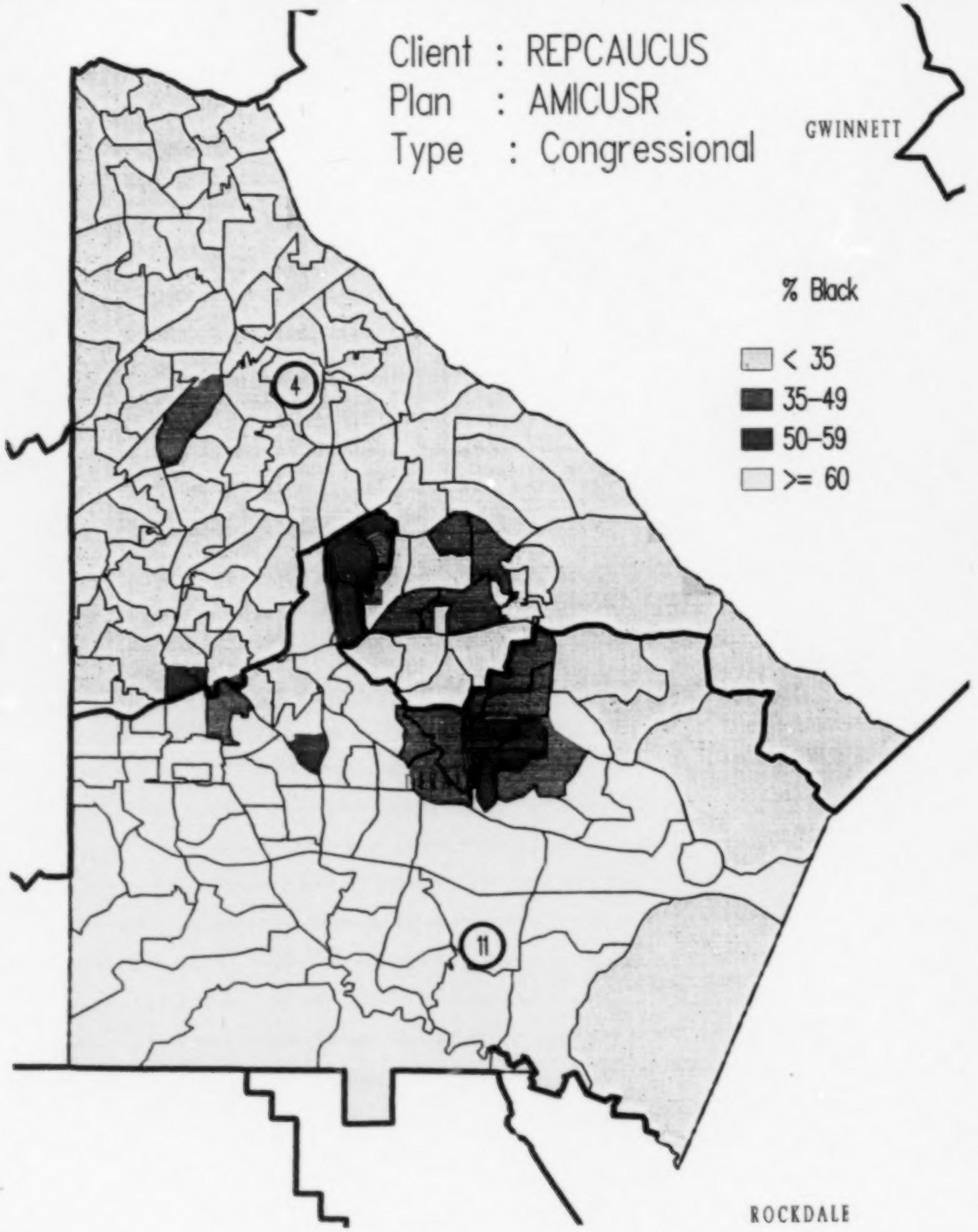
Room: 941 Time: 9:41 AM

Plan: LIT16620124NEW4X Report: Remedy 4X. rep

Population Summary Report Plaintiffs' Remedy 4X

Dist :	TOTAL	DEVIATION	DEV%	WHITE%	BLACK%
1 :	588541	-388	-0.07	67.58	30.55
2 :	587583	-1346	-0.23	59.54	39.21
3 :	589276	347	0.06	73.09	24.80
4 :	589277	348	0.06	55.02	40.36
5 :	590666	1737	0.29	39.57	58.01
6 :	589268	339	0.06	91.36	5.80
7 :	588429	-500	-0.08	85.15	13.70
8 :	587912	-1017	-0.17	67.92	31.07
9 :	589420	491	0.08	94.68	3.65
10 :	588495	-434	-0.07	85.48	12.69
11 :	589349	420	0.07	61.78	36.67

Total Population	:	6478216
Ideal Population	:	588929
Mean Deviation is	:	0
Mean Percent Deviation is	:	0
Largest Positive Deviation is	:	1737
Largest Negative Deviation is	:	-1346
Overall Range in Deviation is	:	3083
Overall Range in Deviation% is	:	0.52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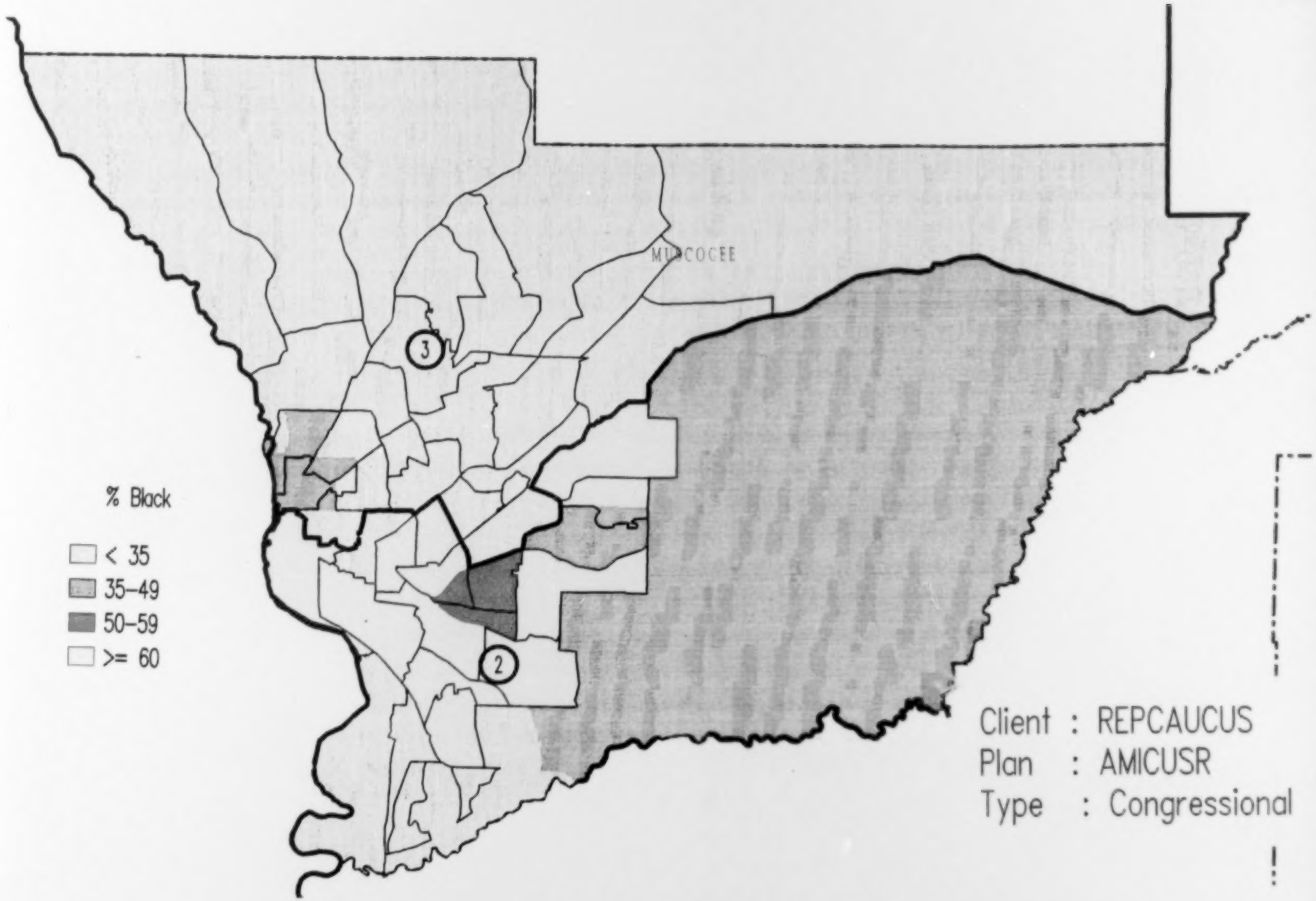
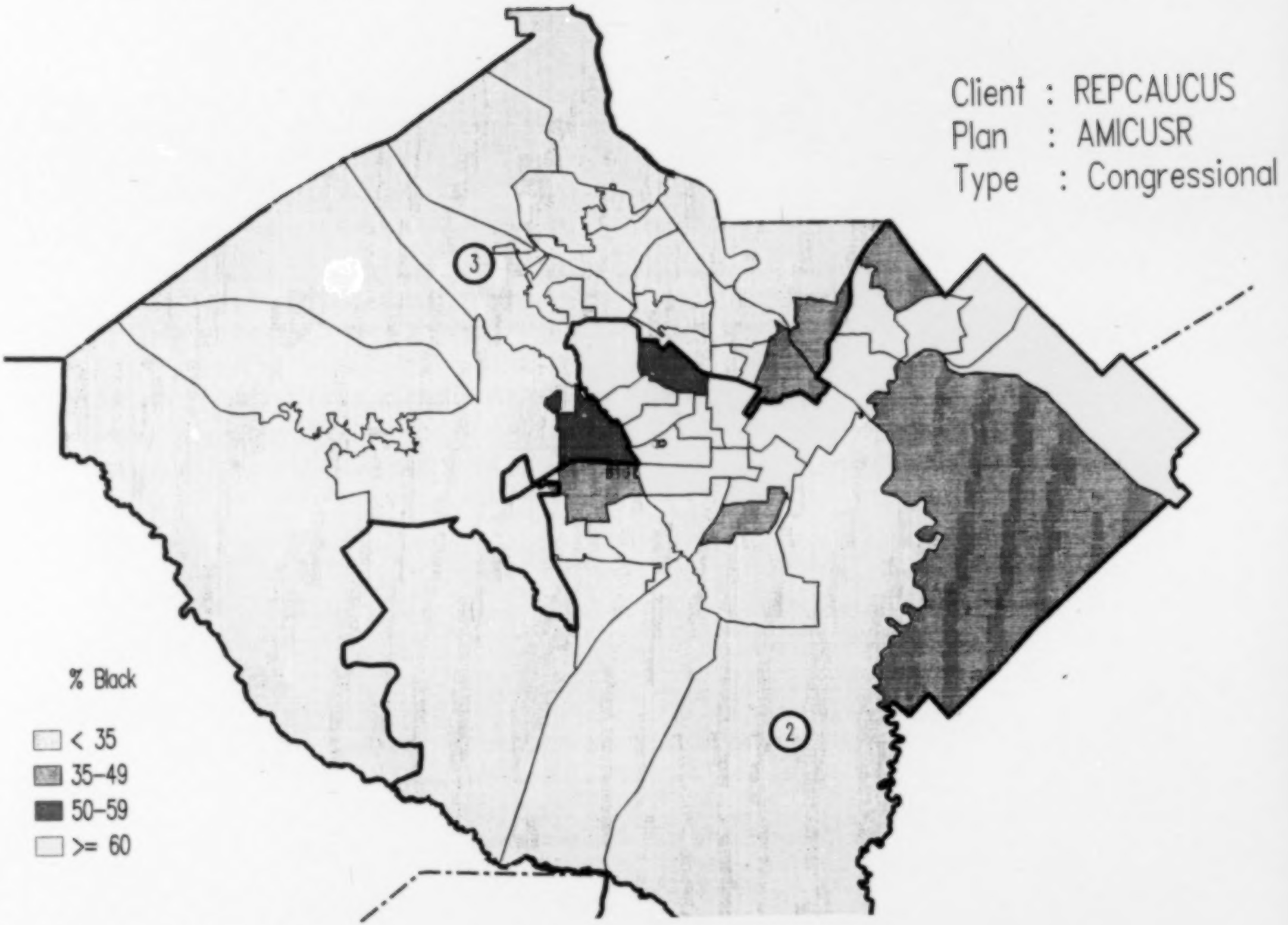
Plan : AMICUSR
Type : Congressional
GWINNETT
% Black
< 35
35–49
50–59
>= 60
4
11
ROCKDALE


MUSCOGEE
3
2
% Black
< 35
35–49
50–59
>= 60
Client : REPCAUCUS
Plan : AMICUSR
Type : Congressional


Client : REPCAUCUS
Plan : AMICUSR
Type : Congressional
3
2
% Black
< 35
35–49
50–59
>= 60

DISTRICT 11 FROM FIRST CONGRESSIONAL PLAN PASSED BY GEORGIA LEGISLATURE IN 1991 (S.B. 2EX)

(NOTE: VAP = Voting Age Population)

District Number	Total Pop % Deviation	Black Pop % of Total	VAP % of Total	Black VAP % of VAP
REMAINDER OF DISTRICT	158263 -73.13	70810 44.74	111964 70.75	45968 41.06
DEKALB PORTION	230592 -60.85	163176 70.76	163684 70.98	109727 67.04
RICHMOND PORTION	114910 -80.49	66539 57.91	81691 71.09	43744 53.55
BIBB PORTION	79588 -86.49	53179 66.82	57903 72.75	35635 61.54
Totals	583353	353704	415242	235074

Number of Districts : 11
Members Per District : 1

Ideal District Size : 588929
Average Deviation (%): 75.24
Deviation Range (%) : -86.49 to 0.00
Overall Deviation (%) : 86.49

(DATA SOURCE: 1990 US Census PL94-171 Population Counts)
(NOTE: Districts numbered > 200 are used as special)
(accumulators. They are not included in avg)
(or % range calculations.)

Supreme Court of the United States

No. 95-1460

UNITED STATES, APPELLANT

v.

DAVIDA JOHNSON, ET AL.

APPEAL from the United States District Court for the Southern District of Georgia.

The statement of jurisdiction in this case having been submitted and considered by the Court, in this case probable jurisdiction is noted. This case is consolidated with No. 95-1425 - *Lucious Abrams, Jr., G. L. Avery, Williams Gary Chambers, Sr., and Karen Watson* and a total of one hour is allotted for oral argument.

May 20, 1996

Supreme Court of the United States

No. 95-1425

LUCIOUS ABRAMS, JR., G. L. AVERY
WILLIAM GARY CHAMBERS, SR., AND KAREN WATSON,
APPELLANTS

v.

DAVIDA JOHNSON, ET AL.

APPEAL from the United States District Court for the Southern District of Georgia.

The statement of jurisdiction in the case having been submitted and considered by the Court, in this case probable jurisdiction is noted. This case is consolidated with No. 95-1460 - *United States v. Davida Johnson, et. al.* and a total of one hour is allotted for oral argument.

May 20, 1996